Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

[Studies in Sociology, Economics, etc.
Vol. 2, No. 1]

THE EARLY HISTORY
OF
BANKING IN IOWA

330

BY
FRED D MERRITT, M.A., Ph.D.

Submitted in partial fulfillment of the requirements for the degree of Doctor of
Philosophy in the State University of Iowa, Iowa City, Iowa. May, 1900

1900
THE UNIVERSITY PRESS
Iowa City, Iowa

THE UNIVERSITY BULLETINS PUBLISHED BY THE UNIVERSITY ARE
ISSUED EVERY SIX WEEKS, DURING THE ACADEMIC YEAR, AT LEAST SIX
NUMBERS EVERY CALENDAR YEAR. ENTERED AT THE POST OFFICE AT
IOWA CITY AS SECOND CLASS MAIL MATTER.

THE EARLY HISTORY
OF
BANKING IN IOWA

BY
FRED D MERRITT, M.A., Ph.D.

Submitted in partial fulfillment of the requirements for the degree of Doctor of
Philosophy in the State University of Iowa, Iowa City, Iowa. May, 1900

1900
THE UNIVERSITY PRESS
Iowa City, Iowa

COPYRIGHT
FRED D MERRITT

The Republican Printing Co.
Printers
Iowa City, Iowa

THE EARLY HISTORY
OF
BANKING IN IOWA

CONTENTS.

PREFACE.

	PAGE
CHAPTER I.— <i>Organization of the Miners' Bank of Du-</i>	
<i>buque.</i>	I
1. Introduction.	I
2. The Charter.	2
3. Confirmation of the Charter by Congress.	7
4. The Opening of the Bank.	7
CHAPTER II.— <i>The Legislative Investigations 1837-8.</i>	9
1. The First Investigation.	9
2. The Issuing of Post Notes.	12
3. The Effects of the First Investigation.	16
4. The Second Investigation.	17
(a) The Interrogatories and Answers.	17
(b) The Testimony of G. D. Dillon.	22
(c) Discussion of the Report.	23
(d) The Supplementary Examination.	24
(e) The Memorial to the Legislature.. . . .	26
5. The Newspaper Correspondence.	28
CHAPTER III.— <i>On the General State of the Currency.</i>	31
1. Opposition to Small Bank Bills.	31
2. Scarcity of Silver.	31
3. Stay of Execution.	32
4. Public Opinion in Regard to Banks	32
5. Character of the Paper Money in Circulation.	34
6. The Governor's Recommendation.	37
CHAPTER IV.— <i>Banking in Iowa from 1838 to 1841.</i>	39
1. The Third Investigation.	39
2. The Results of the Investigation.	43
3. The Proposed Bank of Charleston.	43
4. Condition of the Miners' Bank in 1841.	44
5. The Loan of the Miners' Bank to the Territory of Iowa.	45
6. The Panic of 1837 and General Suspension of Specie Payments.	45

7. Suspension of Specie Payments by the Miners' Bank.	49
---	----

CHAPTER V.—*Banking in Iowa from 1841 to 1844.* 51

1. The Attitude of the Fourth Legislative Assembly.	51
(a) Position of Democrats in the Council.	53
(b) Position of Whigs in the Council.	56
(c) Action of the House.	59
2. Proposed Bank of Davenport.	61
3. Change in Stockholders of the Miners' Bank.	61
4. The Failure of the Territory of Iowa to Pay the Debt Due to the Miners' Bank.	62
5. Attempt in the Fifth General Assembly to Revoke the Charter of the Miners' Bank.	64
(a) Majority Report of Select Committee of the House.	64
(b) Minority Report of Select Committee of the House.	68
(c) Consideration of Reports by the House.	70
(d) Action by the Council.	72
6. The Claims of Improper Influences.	72
(a) The Majority Report of Select Committee.	74
(b) The Minority Report of Select Committee.	75
7. The Miners' Bank in the Sixth Legislative Assembly.	76
(a) Reception of Petitions.	78
(b) The Discussion in the House.. . . .	80
(c) The Discussion in the Council.	82
(d) The House Refuses to Concur.	86
8. The Resumption of Specie Payments by Miners' Bank.	86

CHAPTER VI.—*The Question of Banking Before the Constitutional Convention of 1844.* 89

1. The Majority and Minority Reports on Banks.	89
2. Report of the Select Committee on Banks.	95
3. Report of Committee on Incorporations.	97

	PAGE
4. The Constitution of 1844 as Viewed by the Press and People.	98
CHAPTER VII.— <i>Culmination of the Opposition to Bank-</i>	
<i>ing.</i>	101
1. Petition for a Stock Bank at Iowa City.	101
2. Repeal of the Charter of the Miners' Bank.	103
(a) In the House.	103
(b) In the Council.	103
(c) Provisions of the Bill.	107
3. Provision for Payment of Debt Due the Miners' Bank by the Territory of Iowa.. . . .	108
4. Protest against Provision for Banks in the Constitution.	109
5. Address of the Directors of the Miners' Bank "to the People of Iowa."	111
6. Petitions to Congress to Disaffirm the Acts Granting Banking Privileges to Citizens of Territories.	115
7. The Closing of the Bank.	117
8. Constitutional Convention of 1846.	117
(a) Shall the Delegates be elected by a Party vote?	117
(b) Resolutions of the Democratic Nominating Conventions.	118
(c) The Constitutional Convention.	120
9. Opposition to the Constitution.	125
(a) Speech of Wm. Penn Clark against it.	126
(b) Democratic Support of Constitution.	127
10. The Whig and Democratic Reasons for Ratification.	128
11. The Attempt to Amend the Constitution of 1846, and Adoption of the Constitution of 1857.	129
APPENDIX A.— <i>An Act to Incorporate the Stockholders of the Miners' Bank of Dubuque.</i>	139
APPENDIX B.— <i>Bibliography.</i>	149

PREFACE.

The period covered in this Early History of Banking in Iowa extends from 1836 to 1846, with short sketches of the political and economic conditions from 1846 to the Constitutional Convention of 1857. It includes the history of the Miners' Bank of Dubuque, the only chartered bank, and the discussions of banks in the Constitutional Conventions of 1844 and 1846.

The inter-relation of the economic and political characteristics of the period is fully treated, and so much of the social history is given as is necessary to make clear the economic and political. The historical setting of the more important topics has been given when it has been thought necessary to make clear the economic and political conditions.

The chronological order has been followed in the main, as the subject is not evolutionary, but follows quite closely the passing financial and related political events of the other states of the Union. The only variation from a strictly chronological treatment is made where it has been thought necessary to give a summation of historical events to make clear the discussion of the topic following.

The material for this monograph is very intractable, in many cases, for it bristles with details which defy all attempts at condensation without consequent loss of clearness. Condensation has been made wherever it has been practicable.

The material from which the history of this period has been drawn is widely scattered. The principal part of it has been found in the library of the State Historical Society at Iowa City, including the Journals of the House of Representatives and Council of Iowa Territory, and the files of the Iowa Capital Reporter from 1841 to 1846, and the Iowa Standard from 1840 to 1845 and the Bloomington Herald from 1841 to 1846.

The file of the Dubuque Visitor and Iowa News was found at the Library of the State Historical Department lately merged into the Iowa State Library. Use has been made of material found in the library of the University of Chicago, The Newberry Library, the Chicago Public Library, and the Library of the State Historical Society of Wisconsin, obtained while pursuing investigations upon allied subjects. One can but regret the almost total disappearance of the earlier documents from the State archives, only two documents used in this monograph are found there.

Acknowledgments of thanks are due to Professor Isaac A. Loos, under whose direction the work was undertaken, for courtesies extended during research work and for assistance given in reading the advance sheets; but for any errors found in the text he should not be held responsible. Assistance has been given by Professor Benjamin F. Shambaugh and use has been made of his "Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846" to check the references cited for the Constitutional Conventions of 1844 and 1846.

Courtesies during investigation were extended by Miss Adelaide Lloyd, formerly Custodian of the Iowa State Historical Society; Charles Aldrich, Curator and Secretary of the State Historical Department of Iowa; Johnson Brigham, State Librarian, and his assistant, A. J. Small; Reuben G. Thwaites, Secretary and Superintendent of the State Historical Society of Wisconsin.

CHAPTER I.

ORGANIZATION OF THE MINERS' BANK OF DUBUQUE.

I. *Introduction.*

There were in the United States in 1790 four¹ banks of issue with a capitalization of two and one-half million dollars, and an issue of paper money equal to the amount of that capital. At the close of the year 1810, eighty-eight banks were in operation, and in the next six years 138 more banks were organized. The total capital of all banks at this time was \$89,822,422, with a circulation of \$68,000,000, and a specie reserve of \$19,000,000.

The period from 1816-20 was a period of general suspension of specie payments, accompanied by the evil results of a depreciated currency. By 1820² the circulation had decreased to \$48,000,000 and loans and discounts in an even larger proportional amount. Debts were contracted in this depreciated paper money that after 1820 had to be paid at par.

By 1830,³ there were in operation 329 banks; in 1834, 506; in 1835, 706; in 1836, 713. Many of these banks were organized with but a nominal capital, and of the paid-up capital much of it was in the form of stock notes of the directors. The issues of notes were very often from two to three times the nominal capital of the banks. The banks were in many instances located, if in existence at all, in places inaccessible to the general public.

¹ Blodgett's *Economica*. These were: Bank of North America, Bank of Maryland, Bank of Massachusetts, Bank of New York. The last was operating without a charter. A charter was secured in 1791.

² Sec. Crawford's Report to Congress, Comptroller's Report, 1876, p. 159.

³ *Ibid.*

It was under such conditions of the rapid growth of banks, governed only by very lax regulations, that the citizens of Dubuque applied to the Legislature of the Territory of Wisconsin in November, 1836, for the granting of a charter for a bank.

They were actuated not only by the general principles stated above, but also by local reasons. The mining region of the Fever River had its commercial needs satisfied by the Branch of the Bank of the State of Illinois at Galena; Mineral Point was making application to the Legislative Assembly of Wisconsin Territory for a charter for a bank to meet the supposed requirements of her commercial needs, and this movement to establish a bank at the Dubuque lead mines was simply the logical sequence of the commercial habits of the time.

The charter granted to them was modeled after the usual forms of bank charters of the previous decade.

2. *The Charter.*

The act¹ incorporating "The Miners' Bank of DuBuque" was approved on November 30th, 1836. Its capital stock² was to be two hundred thousand dollars, divided into shares of one hundred dollars each, and the "subscriptions toward the stock" were to be opened as soon as convenient after the act had been approved³ by the Congress of the United States. Permission was granted to the commissioners not only to open the subscription books in the county of Dubuque, but also at such other places as they might think proper, and were to be kept open until the stock was subscribed.

Ezekiel Lockwood,⁴ Francis Gehon,⁵ John King, William

¹ Act No. 7, Laws of the Territory of Wisconsin, 1836, p. 27. For a full copy of the text of the charter, the reader is referred to Appendix A.

² Charter. Sec. 1.

³ Required by Chap. CCXXI, U. S. Statutes at Large, Vol. 5, p. 61, 24th Cong., 1st Sess., approved July 1, 1836.

⁴ Merchant, Dubuque.

⁵ Marshal of the Territory of Wisconsin; Captain in the Black-Hawk war; elected Delegate to Congress 1839, never acted; Member of Council of 6th Legislative Assembly.

Myers, Lucius H. Langworthy, Robert D. Sherman, William W. Corriell,¹ Simeon Clark and E. M. Bissell² were appointed as commissioners to receive the subscriptions, and also to be the first directors; one of their number was to be chosen president. They were to hold their offices until the first election for president and directors should take place. Thirty days' notice of the time and place of opening the subscription was to be given by publication in one or more newspapers in the county.

In case subscriptions³ were made for more than the amount of the capital stock within the first three days after the books were opened, the commissioners were empowered to apportion the stock in a rateable proportion to the amount subscribed.

One tenth of each share was to be paid⁴ to the commissioners at the time the subscriptions were made, and the balance in such installments and at such a time as the majority of the the directors should direct; "*provided*, that whenever the payment of any installment is required by the directors, they shall give at least ninety days notice thereof, in a newspaper, printed in the county, if there should be any published at the time; if not, then in a newspaper published in the territory the nearest to the said bank, but no one installment shall exceed ten dollars on each share."

Power was given to the majority⁵ of the board of directors⁶ to make the necessary by-laws for the management of the bank, in so far as they should be in consonance with the constitution and laws of the United States and of the Territory.

Power was given to the legislative assembly to require⁷ at any time a sworn statement from the president and cashier of the bank as to the condition of the bank in regard to "the

¹ Lawyer; Proprietor of the Du Buque Visitor—first paper printed in what is now Iowa.

² Afterwards Cashier of an Illegal Bank in Illinois.

³ Charter, Sec. 2.

⁴ Ibid, Sec. 3.

⁵ Ibid, Sec. 7.

⁶ Ibid, Seven Directors, Sec. 5.

⁷ Ibid, Sec. 7, 2d clause.

amount of deposits, the profits on hand, the amount of bills in circulation, the amount of debts due from the directors and stockholders, the amount due from other persons or corporations, not however, naming them, the amount of specie in bank, the amount of bills of other banks, the amount of their deposits in other banks, the amount of their real estate, and of other property not herein specified, the amount of capital actually paid in, and shall contain the true exhibit of the real state of said bank."

The total amount¹ of all kinds of indebtedness of the bank at any time, over and above the amount of specie then deposited, was restricted to three times the sum of the capital stock then subscribed and paid in; and in case of excess, the directors, under whose administration it should occur, were to be liable in their separate and private capacities "*provided*, the bank shall not be able to pay its liabilities; *and, provided, also*, that this shall not be construed to exempt the said corporation or any estate, real or personal, which they may hold as a body corporate from being also liable for, or chargeable with, such excess; but such of the directors as were absent, when the said excess was contracted, or who may have dissented from the resolution or act whereby the same was contracted, shall not be so liable."

The management of the affairs of the bank was to be vested in a board of directors² of seven persons who were to be not only stockholders, but also residents and citizens of the Territory. Public notice was to be given in some newspaper for at least sixty days previous to the time of holding the annual election on the first Monday in October. Directors³ were to be elected by a plurality of the votes⁴ cast in person or by proxy. The directors were then to elect one of their number president. If a director ceased to be a stockholder, his office was to be considered vacant, and this or any other vacancy

¹ Charter, Sec. 8.

² Ibid, Sec. 5.

³ Ibid, Sec. 12.

⁴ Ibid, Sec. 11.

was to be filled for the remainder of the year by the remaining directors. Provision was made that if, for any cause, the election of directors did not take place on the regular day,¹ the corporation was not to be deemed to be dissolved; but the election could be held some other day as "regulated by the laws and ordinances of the said corporation."

The bank was prohibited² from holding any land, except such as might be necessary for the convenient transaction of its business, or *bona fide* conveyances in satisfaction of debts previously contracted, or purchases at judgment sales for the satisfaction of debts owing to it.

Following the general course of bank charters of the time the corporation was denied the right of purchasing³ or selling directly or indirectly, "any goods, wares, or merchandise, unless in selling the same when truly pledged by way of security, for debts due the said corporation, or purchasing the same at sales on judgments, which shall have been obtained for any debts previously contracted in the course of its dealings, and afterwards selling the same."

A majority⁴ of the board of directors were empowered to declare the semi-annual dividends; and the number⁵ of directors to constitute the board of discount was to be regulated by the by-laws.

General meetings⁶ of the stockholders were provided for by three weeks previous notice in some newspaper printed in the county.

Assignment⁷ or transfer of stock was not to be considered valid until registration had been made on the stock-books of the bank. The bank was fully protected by the fact that no stockholder was capable of making any assignment or transfer of his stock until all notes, debts, dues or endorsements of whatever nature, either due or becoming due, to the corporation were first paid.

¹ Charter, Sec. 6.

² Ibid, Sec. 9.

³ Ibid, Sec. 9.

⁴ Ibid, Sec. 13.

⁵ Ibid, Sec. 14.

⁶ Ibid, Sec. 15.

⁷ Ibid, Sec. 16.

The property¹ of individual members of the corporation, vested in corporate funds, was made liable in the same manner "as other personal property is liable by the laws of the territory to the payment and satisfaction of his just debts to any of his bona fide creditors." Provisions were made for the levy and sale of the stock taken on execution, but before the sale could take place, it was provided: "that no property vested in the said corporate funds, shall be taken and sold until all the debts due or becoming due to the said bank, by such debtor, whether as a drawer or endorser or surety, shall be fully paid and discharged; and upon any execution being levied on any shares in said bank, it shall be the duty of the cashier of said bank to expose the proper book of the corporation to the officer, and to furnish him with a certificate, under his hand, in his official capacity, stating the number of shares the debtor holds in said bank and the amount of dividends declared and due thereon."

The rate² of discount was restricted to not more than seven per cent. per annum on its loans and discounts, in advance.

No note³ or bill was to be issued of a less denomination than five dollars, and no bills were to be issued until forty thousand dollars in legal coin of the United States had been paid into the corporation by the stockholders as a part of the stock. Power was reserved to the Legislature to prohibit in four years from the date of the act the issue of notes of a less denomination than ten dollars, or in ten years of a less denomination than twenty dollars.

No director⁴ was to be indebted to the bank at any time, either by loans or endorsements, or in any manner, to an amount exceeding five thousand dollars.

This act⁵ was declared to be a public act for the time limited by the charter; provision was made: "that if said corporation shall fail to go into operation, or shall abuse or misuse

¹ Charter, Sec. 18.

² Ibid, Sec. 19.

³ Ibid, Sec. 20.

⁴ Ibid, Sec. 22.

⁵ Ibid, Sec. 4. Expired May 1, 1857.

their privileges under this charter, it shall be in the power of the legislative assembly of this territory, at any time, to annul, vacate, and make void this charter.”¹

3. *Confirmation of the Charter by Congress.*

Congress, in the Act² confirming the banking laws of Wisconsin, amended the charter of The Miners' Bank of Dubuque in several particulars.

The bank was forbidden to issue bills or notes for circulation until one-half of the amount of its capital stock was paid in; and, in order to enable the directors to comply with this limitation, they were authorized to make calls according to the provisions of their charter, to an amount not exceeding, at any one time, forty per cent. upon the whole amount of stock subscribed by each stockholder, instead of being restricted to ten per cent. at any one time, as provided in the charter.

The privilege of determining whether the capital of the bank should be increased to more than two hundred thousand dollars was not left entirely within the power of the stockholders, but the previous consent of Congress must be obtained.

The bank must go into operation before the first of January, 1838, or the charter would be deemed void and of no effect.

4. *The Opening of the Bank.*

The commissioners readily accepted these provisions and immediately set in motion the necessary legal machinery to carry the modified charter into effect. In the Du Buque Visitor of May 17, 1837, we find in the editorial columns the statement that: “The books for the subscriptions of the stock of the Du Buque bank, chartered by the Territorial Assembly and sanctioned by Congress, will be opened on the 22nd

¹ Charter, Sec. 23.

² Approved March 3, 1837. Chap. LXXV, U. S. Statutes at Large, Vol. V, p. 198, 26th Cong. 2d Sess.

inst. See advertisement." The advertisement furnished the information that the books for subscriptions would be opened at the store of Francis Gehon, in the town of Dubuque, on Monday, Tuesday and Wednesday, the 22nd, 23rd and 24th of May next, and at that time ten per cent. of the amount subscribed would be required to be paid to the commissioners, making the amount to be paid in at that time twenty thousand dollars, which, as far as any of the conditions of the accepted charter were concerned, might be in either currency or silver.

In an editorial in the Iowa News of June 3rd, 1837, which felicitates the community upon the establishment and opening of a banking institution in their midst, it is said: "That we are happy to state that the whole of the stock of the Miners' Bank of Du Buque was subscribed for on the 22nd, 23rd and 24th, and 30th ult., on which days the books for the subscriptions were kept open by the commissioners of the bank."

In an advertisement in the Iowa News of June 3, 1837, there is a call for the payment of forty dollars upon each share of the capital stock of the bank at their office on the second Monday of October next—fifty per cent. of said installment to be specie. This was signed "By the order of the Board, E. Lockwood, President."

In the same newspaper as above, at a later date, notice is given of an election of directors to be held in accordance with the provisions of the charter, on Monday, the second day of October, at the counting room of E. Lockwood. As this date would not give the necessary thirty days' notice required by the charter, there is in the issue of September 30, 1837, an additional notice postponing the election to October 14th, at the same place.

Up to this date the notices in regard to subscriptions, payment of subscriptions, and official organization, had been made in accordance with the legal requirements of the charter and its modifications by Congress.

CHAPTER II.

THE LEGISLATIVE INVESTIGATIONS OF 1837-38.

I. *The First Investigation.*

The bank opened¹ its doors for the transaction of business on October 31, 1837, with E. Lockwood as President, and G. D. Dillon as Cashier. The act of organization and selection of officers had been accompanied with considerable friction. E. M. Bissell, one of the commissioners, had at first been chosen for the position of cashier, but for some cause the appointment was revoked and G. D. Dillon substituted in his place.

Charges as to an attempt upon the part of stockholders with large holdings to secure the shares of the small holders were freely made. Charges were also made that the full amount of the required capital was not paid before issuing notes; and that the specie was borrowed for the specie payment upon the capital stock. These were followed with all kinds of rumors of corrupt action upon the part of the officers of the bank.

The public mind was in a condition to be easily influenced by such rumors and by the very nature of the past actions of banks, to be easily, almost willingly, led to believe them. The little community of Dubuque was soon agitated over its bank war.

These rumors soon reached the Legislative Assembly, then in session at Burlington, and on the fifteenth of November, 1837, Mr. Sholes, in the House of Representatives, moved that a committee of five² be appointed to inquire into the

¹ It was first located in the house of Le Roy Jackson, near the corner of Clay and Ninth streets.

² Iowa News, Nov. 2, 1837.

condition and acts of the banks of the Territory. This was modified and passed on the next day, and a committee of three,¹ consisting of Messrs. Sheldon, Sholes and Engle, were appointed to make an examination of the Miners' Bank of Dubuque, Bank of Mineral Point and Bank of Milwaukee, and to report to the House at as early a date as possible.

This committee immediately proceeded to discharge the duties assigned to them by the resolution of the House. The committee stated that in consequence of the excitement, existing to some extent in the public mind, which had been propagated by rumors that were "calculated to affect injuriously the interests of the public and of the institution," and because the proper officers were not present from whom they would "receive the necessary information concerning the actual condition of the bank, they thought it necessary, and within the power vested in them by the resolution, to personally visit the bank." An additional reason was given for this course that by pursuing it there would be an opportunity afforded to the citizens of the town where the bank was located of stating to the committee the facts in their knowledge as to the character, management and operation of the institution.

The committee, upon their arrival at Dubuque, submitted in writing a list of questions to the President and Cashier of the Miners' Bank of Dubuque. The President of the bank was absent from the town, but the questions were answered by the Cashier.

From the answers returned by the Cashier to their interrogatories, they report that \$100,000 of capital stock had been actually paid in, \$41,147 of which was in specie, and the balance in the notes of the various banks of New York, Pennsylvania, Illinois, Wisconsin and Michigan. The amount of specie on hand was reported to be \$42,118. The bank at that time had a circulation of \$11,435, of which \$2,000 were in demand notes, and \$9,435 in post notes of twelve months after date. The individual deposits were—only \$3,043. The debts

¹ Iowa News, December 9, 1837.

due the bank from all persons and corporations was \$57,321. The bills of other banks in their possession were \$12,177. The real estate holdings of the bank were \$950, the bank building and lot. The statement was also made that no director of the institution was "indebted to it in a larger sum than that prescribed by the charter." That the bank had always paid specie "when demanded at the counter." That the bank commenced discounting upon October 31st, and part of the discounts were made in its own bills and partly in the bills of other banks. Its own bills were partly demand and "some twelve months after date."

The committee, in continuation of their report, stated that they were satisfied with the answers and that they did not deem it necessary nor "within the scope of their authority to inspect the books of the bank, or to count the money, although every facility for that purpose was offered to them by the Cashier." The committee remained in Dubuque for 28 hours, but no persons appeared before them to make any reports either in favor of or against the character of the transactions of the bank.

The committee, from the investigation which they had made and from the facts which had come to their knowledge, reported¹ that they were of an unanimous opinion that the Miners' Bank of Dubuque was "in a sound and solvent condition." They also expressed the opinion that the bank had met all of the requirements of the charter. To this one of them dissented in regard to the issue of post notes, payable twelve months after date, upon which interest was charged at seven per cent., in advance, for loans made in these bills. The majority of the committee, while doubting the propriety of issuing such bills, did not look upon loans so made as an infraction of any of the provisions of the charter.

¹ Iowa News, December 9, 1837.

2. *The Issuing of Post Notes.*

The issue of post notes by the Miners' Bank was one of the serious objections made against it, and in the minority report this was considered to be an infraction of its charter. In the charter there was no provision for issuing them, nor was there a provision forbidding their issue. This bank simply followed the precedents, some legal, some illegal, established by many banks, in the issue of this class of notes.

Leaving the question as to the legality or illegality of their issue for the present, let us turn to their early history, and as there is not a *resume* of the history of the issue of post notes in any one place, it may seem in some respects, at least, but proper to notice here in a fragmentary way, a few of the more important instances in which they had been issued in the past history of the country; and also some instances where the different states had prohibited them.

The term "post note" has given rise to confusion because it was applied to notes payable at some future date, either "to bearer" or "to order," either "with" or "without" interest; so there were really four classes of them to which the same name was applied.

At the close of the war for "Commercial Independence,"¹ all of the banks had suspended specie payment. At the special session of the General Assembly of Connecticut, an act² was passed, on January 15th, 1815, which empowered each of the incorporated banks within the state to issue bills to the amount of one-half their paid up capital, payable on demand two years after the close of the war. These bills were to be receivable for all debts due to the banks. The bills of the banks were now put out under two forms: the first promised to pay the bearer in notes of New York banks, on demand at the specified banks at New York, or in specie two years after the war; the second promised to pay the bearer in specie two years after the war. By an act passed at the regular session

¹ 1812.

² Session Laws, 1815.

of the General Assembly, in May, 1815,¹ the power of issuing these post notes by the banks was to cease on January 1st, 1816.

For the purpose of adding the business of buying and selling London exchange to their regular banking business, the Suffolk Bank directors, on the fifteenth of August, 1818, appointed a committee² to secure the necessary funds by the means of a loan based upon post notes.

On February 5th, 1819, the General Assembly of Ohio passed a law³ which had for its purpose the compelling of banks to resume the payment of their notes in specie, it contained a provision which made it unlawful to issue bank notes payable at a future date. On December 24, 1824,⁴ the Bank of the State of Alabama was authorized to issue post notes payable to order; they were not to be for a period exceeding one hundred and twenty days and were to be redeemed in specie.

The Massachusetts Legislature, in 1836,⁵ allowed banks to issue post notes up to fifty per cent. of their capital and in denominations not less than five dollars. Interest was to be paid on these notes at the rate of four and one-half per cent. per annum; interest was to cease when due. This act was repealed on February 1, 1838.

Dr. Dyott's Manual Labor Bank of Philadelphia, in 1836, issued⁶ post notes in denominations ranging from one to twenty dollars. This bank was in existence for a period of only about three years, and then failed with almost total loss to its creditors, who were mostly from the laboring classes.

On January 18, 1834, the Bank of Mobile and its branches were authorized⁷ by the Legislature of Alabama to issue post notes, without interest, until a demand for payment was made. These notes were to be made payable to a specified person,

¹ Session Laws, 1815.

² The Suffolk Bank, p. 6.

³ Session Laws, 1819.

⁴ Session Laws, 1824.

⁵ Session Laws, 1836.

⁶ Niles Register, Vol. 56, p. 36.

⁷ Session Laws, 1834.

and the longest time for which they could be issued was ninety days. By the act¹ of January 2, 1835, the bank and its branches were allowed to issue post notes only to the extent of one-half of the paid up capital; one-half of these being made payable at Philadelphia, New York and Boston, in specie.

At a special session of the Legislature of Mississippi in 1837, an act² was passed allowing chartered banks to issue post notes to bear interest at a rate not exceeding five per cent. and to be loaned at a rate not exceeding nine per cent. The period of time for which they were to be issued was from six to thirteen months, and if not redeemed when due, they were to be endorsed and draw twelve and one-half per cent. interest. The banks must receive them for their own debts, and they were to be receivable for taxes, provided the bank had not at any time failed to pay its notes in specie.

In January, 1837, and again in October, 1838, the United States Bank of Philadelphia resorted to the use of sixty day post notes bearing six per cent. interest, and put them in circulation in those portions of the country where specie payments were not made by the banks.

The charter of the Union Bank of Mississippi was re-enacted³ on February 5, 1838, there was no specific provision in it for the issue⁴ of post notes, but there was a provision that it could not issue post notes of a less denomination than five dollars. It put out a large issue of these notes claiming that they were based upon the backing⁵ of the state. It was of this bank that the eccentric Governor McNutt, in his Inaugural Message⁶ of 1839, complained of its issuing depreciated post notes, thus forcing borrowers to pay at the rate of twenty-two per cent. per annum.

The Bank of Arkansas issued post notes from the time of

¹ Session Laws, 1835.

² Acts, Special Session of Legislature, 1837.

³ Acts of Legislature of 1838.

⁴ Section of Charter.

⁵ 6 Howard (Miss.) p. 627.

⁶ See Inaugural Message, p. 2.

its commencing business, and the Batesville Branch, in June 1838, had in circulation¹ \$7,785 in demand notes, and \$241,943 in post notes.

In 1840 a law² was passed in New York which defined the issuing of post notes as a misdemeanor, punishable by fine and imprisonment. In the same year the State of Mississippi, by an enactment³ of its Legislature, forbade the issuing of post notes by any bank, and any violation of this law was to be punished by a forfeiture of charter.

"The subject referred to your committee⁴ (post-notes) has received that attention which its importance demands; and although the Bank of Mineral Point has issued and is circulating a kind of paper which has given rise to some suspicions of her solvency and ability to meet her issues, we are not prepared to say that the policy pursued by her is not absolutely necessary to enable her to afford those facilities to the mining and commercial interests of the community in which she is located and which at this time are so much needed."—Committee on incorporations, Wisconsin Council, August 6, 1840.

Post notes were generally issued by the banks either as an expedient to tide them over until they were able to resume specie payment, or else under the guise of extending aid to the debtors while they were really borrowing from the would be borrowers from the bank. They may be well named "forced loans"; for the greatest portion of them bore no interest, and, if they did, it was always at a less rate than that charged the debtor for the loan of them. The borrowing of them was a transaction in which the debtor was always at a disadvantage. Upon the banks the effect of issuing post notes at the close of a speculative period, terminating in a panic, was to drive them lower and lower down into the depths of bankruptcy.

¹ Report of Condition of Banks, 1852.

² Session Laws, 1840.

³ Acts of Legislature, 1840.

⁴ Journal of Council, 1840, p. 18.

3. *The Effects of the First Investigation.*

To a portion of the community,¹ the friends of the bank, the report of December, 1837, of the majority of the committee was perfectly satisfactory. In an editorial of the Iowa News calling attention to the reports of the results of the investigation of the banks of the Territory, it was stated that the Miners' Bank was now proven to be in a safe and sound condition and that no violations of the privileges of the charter had taken place. The writer also deprecated the attempts that had been made to injure the credit of the bank, not only at home but also abroad, as it was evident to all fair minded persons that it was a direct injury to the whole community. It was clearly shown that previous to this time the community had suffered from the evil effects of a currency made up of the bills of banks of nearly all the different states of the Union; and that in most cases it was impossible to decide which was good money and which was not. But, if the growth of the business of the bank was not hampered and even prevented by these attempts, then the community would be supplied with a currency, the character of which would be known at all times, and the natural tendency would be for this money to take the place of the former mixed currency with which they had been afflicted.

Again in the January 5th issue of the Iowa News, the editor re-asserted that to his knowledge the Miners' Bank of Dubuque was one of the "most solvent institutions in the country," and that "it is with surprise mingled with indignation" that he perceived that certain persons who were actuated by "malevolent and base motives" were seeking to "stir up popular excitement against it." The statement was also made that the bank had always promptly paid all of its own notes in specie, and was exchanging its own post notes for the notes of other banks, not redeeming them in specie. It called attention to the fact that it was obvious to all that those "who were endeavoring to create this excitement among the people, by raising false

¹ Iowa News, December 9, 1837.

reports and garbled statements," were actuated by "personal pique against the Directors;" and that this action upon their part entitled them to nothing but contempt from all.

The character of this report and of the editorials in the Iowa News was not such as to quiet the opposition to the bank. After an ineffectual attempt to secure the privilege of having printed in the Iowa News an article already written, and of one not yet written, the opposing faction had recourse in having their articles printed in the Miners' Free Press¹ of Mineral Point, and in other papers of the territory.

This newspaper war was followed up by flooding the Legislature with affidavits and statements, both for and against the financial condition of the bank. These were referred to a select committee which reported² that a joint committee should be appointed to investigate the affairs and conditions of the Miners' Bank of Dubuque. In accordance with this recommendation, a joint committee of two from each house was appointed; and was to make a report at the extra session of June, 1838.

4. *The Second Investigation.*

(a) The Interrogatories and Answers.

The select committee appointed³ under a Joint Resolution of the Council and the House of Representatives of Wisconsin Territory, on the 19th day of January, 1838, to investigate the conditions and affairs of the Miners' Bank of Du Buque, met at the town of Du Buque on February 3rd, 1838, and proceeded to discharge the duties assigned to it.

Mr. Thos. McKnight was chosen chairman, and Joseph T. Fales, Clerk.

The committee addressed to the President and Cashier of the Bank the following communications :

MESSRS. LOCKWOOD & MARTIN,

Gentlemen:—The undersigned have been appointed a Special Committee by the Council and House of Representatives to

¹ Col. W. S. Hamilton, son of Alexander Hamilton, was the editor.

² Journal of House, 1837-38 p. 349.

³ Joint Resolution of January 19, 1838.

examine into the affairs and conditions of the Bank under your direction, in pursuance of the following resolutions, viz : Resolved by the Council and House of Representatives of the Territory of Wisconsin, that a Joint Committee of two from each House, be appointed to investigate the affairs and conditions of the Miners' Bank of Du Buque, that said committee have power after adjournment to visit the bank in person, examine its books and papers, count the money in its vaults, and to examine whether the said bank has complied with the provisions of its charter or not, and that they have power to issue subpoenas and attachments, to compel the attendance of witnesses to testify on the subjects submitted to them by this resolution, and that said committee report at the extra session of the Legislative Assembly in June next.

ISAAC LEFLER, Speaker of H. R.

Attest: JOHN CATLIN, Chief Clerk.

"Copy."

In pursuance of the power vested in us, we respectfully address to you the following interrogatories, to which your answers in writing under oath or affirmation are requested:

- 1st. What amount of capital has actually been paid in ?
- 2nd. In what kind of funds, how much specie, what amount of notes of other banks, and what banks ?
- 3rd. What is the amount of your bills in circulation, with what amount purport to be payable upon demand, and what amount after date ?
- 4th. What is the amount due the bank by directors and stockholders ?
- 5th. What is the amount of debts due by other persons ?
- 6th. What is the amount of debts due by corporations ?
- 7th. What is the amount of your deposits with other banks ?
- 8th. What is the amount of your real estate and other property ?
- 9th. What is the amount of bills of other Banks in your possession, and what banks ?
- 10th. What is the kind of funds with which your discounts have been made ?
- 11th. And what amount of notes of each bank ?
- 12th. What is the amount of stock you hold in other banks or corporations ?
- 13th. Have you at any time refused the payment of specie for your bills when demanded at your counter ?

14th. Have you at any time taken more than seven per cent. per annum in advance for loans and discounts?

15th. Have any of the directors been indebted to the bank at one time to an amount exceeding the sum of five thousand dollars by loans, endorsements or otherwise?

16th. Have you, upon discounted notes or drafts, given your notes payable to bearer, 12 months after date, and if so, was it agreed or understood that you would take such notes in payment of debts due the bank?

17th. Had you forty thousand dollars in specie on hand before any bills or notes were issued?

18th. If you have discounted with notes of other banks, will you receive the same notes in payments of debts due the bank?

19th. Are your deposits in other banks general or special, and what are the amounts?

Yours respectfully,

THOS. MCKNIGHT, Chr'm.

E. E. CHILDS.

JAS. P. COX.

Attest: JOSEPH T. FALES, Clerk.

February 3rd, 1838.

In reply the committee received the following :

MINERS' BANK, DU BUQUE, February 5th, 1838.

Sir:—Your communication informing me that you had been appointed a special committee by a joint resolution of the Council and House of Representatives of the Territory of Wisconsin to investigate the affairs and conditions of the Miners' Bank of Du Buque, enclosing a copy of the resolution under which you act, was received on Saturday evening. With the same communication I received the interrogatories which you propounded relating to the condition of the bank. Enclosed you will receive answers to the same which are respectfully submitted to your consideration.

I am, Very respectfully,

Your obedient servant,

E. LOCKWOOD, President.

TO HON. THOS. MCKNIGHT,

Chairman of Com. of Investigation.

In answer to the interrogatory :

1st. \$100,000.

2nd. \$40,000 in certificate for specie deposited in Detroit. \$50,000 in notes of Jackson Co. Bank and Bank of Manchester in the State of Michigan, and \$10,000 in specie and various other bank notes.

3rd. \$14,030. \$1,350 demand, \$12,680 twelve months after date.

4th. \$14,183.

5th. \$39,525.78.

6th. We have certificates for \$40,000 in specie deposited in Exchange office of Henry Brown & Co. in Detroit.

7th. We have no deposits in other banks.

8th. \$950.

9th. \$20,150, of which \$19,520 are in Jackson County and Bank of Manchester, and \$635 in Wisconsin and various other banks.

10th. Our discounts have been made in part with the notes of other banks and in part with notes of this Bank.

11th. About \$20,000 in Jackson Co. and Bank of Manchester, about \$20,000 in the notes of this and other banks; it is impossible to ascertain the precise amount.

12th. We hold no stocks in other banks or corporations.

13th. We have never declined paying for our bills when presented at our counter.

14th. We have never taken more than seven per cent. in advance on loans and discounts.

15th. No director has been indebted to this bank at any one time to the amount of \$5,000.

16th. We have paid out post notes in the manner proposed, and have always received them in payment of debts due the bank without regard to maturity.

17th. We had made arrangements for \$40,000 in specie, as referred to in our answer to the second question.

18th. We shall receive them in payment for any debt due the bank, which may have been created by the issues of these notes.

19th. We have no deposits, special or general, in other Banks.

E. LOCKWOOD, Pres.

T. O. MARTIN, Cashier.

The committee then proceeded to examine the money in the Bank and found as follows :

Specie, \$1,318.

Notes of Jackson Co. Bank, \$10,000.

Notes of Manchester Bank, \$10,000.

Certificate of specie, deposited in Detroit, \$40,000.

The following questions were propounded to the President and Cashier by the Chairman :

1st. Do you redeem the post notes when requested?
Ans. We redeem them by notes of other banks.

2nd. Have you ever issued notes of a less denomination than five dollars ? *Ans.* We have not.

State of the funds of the Miners' Bank of Du Buque on February 3rd, 1838:

ASSETS.

Certificate of specie in Detroit	\$40,000.00
Bills Discounted.....	40,809.05
Due Bills of Exchange.....	1,450.00
Due from Individuals.....	2,060.00
Contingent Expenses.....	1,010.26
Suspense Account.....	4,463.98
Real Estate.....	950.00
Foreign Bank Notes	20,155.00
Items counted as Cash.....	7,375.75
Specie on hand.....	1,318.02
	<hr/>
	\$119,592.06

LIABILITIES.

Capital Stock paid in.....	\$100,000.00
Discount Received.....	864.01
Profit and Loss.....	1,113.00
12 months notes in Circulation.....	12,680.00
Notes on Demand in Circulation.....	1,350.00
Individual Deposites.....	3,585.05
	<hr/>
	\$119,592.06

(b) The Testimony of G. D. Dillon.

G. D. Dillon was sworn and stated that \$41,147 was in the bank in specie on the 21st of November, 1837. Some money there belonged to the bank at that time and some to me. The safety fund notes on hand at that time belonged to the bank; the notes of the United States Bank belonged to the Bank and individuals.

I entered names on the bank for \$101,000 worth of stock the owners assigned it to me. The ten per cent. was all paid in. The small stockholders paid in their stock, some drew it out again by notes.

Some paid the installment of forty per cent. I brought two notes of \$75,000 from the East. Part of the stock was individual notes which were afterwards discounted. I showed the committee \$12,000, which was on hand at that time. The Galena Bank was the bank in which we deposited our stock, part in specie and part in paper. The paper money that I had considered as belonging to the bank, but as some of the directors said that they would not consider it legal, I thought there was some they should not have. It was talked of among the directors to take stock notes. The notes that I had were payable to the President, Directors and Co. of the Miners' Bank of Du Buque. The directors have never passed upon them. The opinion of the directors was that a note payable to the bank was good for stock without endorsement. Some of the stockholders have had their stock discounted. Some of the forty per cent. was paid in specie, and some in notes of other banks. I don't remember that any individual notes were received for stock, some paid their stock, put in their notes and drew it out again. I don't remember at what time we began issuing. Don't remember with what notes we discounted with first. The people here got a large portion of Du Buque paper, for their notes, others got other bank paper. Some of the stockholders had their notes discounted and drew out the money they paid their forty per cent. with. I took into consideration that we had funds and paper amounting to \$100,000, which was paid in before issuing. I have the notes originally paid in by me. I ought to own \$101,000 of the stock. I put in a note and took it out again; I paid in my stock and drew it out again by a note. I sometimes discounted notes on my individual responsibility. The statement I made to the first committee is substantially correct.

After hearing the above statements and testimony of the

several individuals, the committee resolved to meet again on the first Monday in June next, and the Clerk be authorized to have the present proceedings published in all the papers of the Territory.

T. H. McKNIGHT, Ch'man.
J. R. VINEYARD.
JAMES P. COX.
E. CHILDS, Com.

Attest: JOHN FALES, Clerk.
February 10, 1838.

The editors of all papers in the Territory will please give one insertion of the above in their respective papers, and send their bills to the Secretary of the Territory for payment.¹

(c) Discussion of the Report.

In this report the President and Cashier testify that the full amount of the capital had been paid, and the statement is made that the required amount of specie had been paid in; but there is no testimony bearing upon whether it was paid at the time required by the charter. The testimony shows that one-half of the money was Jackson County and Bank of Manchester notes, the charter of which is discussed later. It is stated that there is no officer or director that owes more than \$5,000, the limitation of the charter; and the total amount owed by all the officers and directors is \$14,183, which is about one-seventh of the total capital of the bank. The testimony in the report and the statement of the count of the Investigating committee reveals that \$30,000 in Michigan notes have been put in circulation.

The appended statement of assets and liabilities only shows loans to the amount of \$42,869.05, while the testimony of the President and Cashier show that \$48,708.78 had been loaned.

It is shown that while post notes will be received in payment of debts due the bank regardless of maturity, they will, under other circumstances, be paid only in notes of other banks.

No other paper money than Michigan notes is revealed by the count of the money of the bank by the committee; and

¹ Iowa News, February 10, 1838.

\$1,318.02 in specie with which to pay the \$1,350.00 of demand notes of the bank.

The testimony of G. D. Dillon, the former cashier, while evidently badly mixed by taking it down in long hand, reveals some of the peculiarities of the early organization. This testimony showed that he had received the assignment of the subscriptions of the controlling interest of the bank's capital of which the first requirement of ten per cent. had been paid in. In one place, he states that a part of the stock was individual notes that were afterward discounted; in another, that the directors considered an unendorsed note, made payable to the bank, was good for stock; in his later statement in regard to this subject, he says: "I don't remember that any individual notes were received for stock, some paid their stock, put in their notes and drew it out again." These statements furnish at least one witness to the fact that the money was paid in for the stock and that then the stockholders borrowed the money from the banks upon their individual notes.

(d) The Supplementary Examination.

The committee was not satisfied with the amount of specie on hand; but they were assured by the officers of the bank that the sum of \$40,000 in specie was on deposit to the order of the bank in Detroit, and that it would be in the hands of the bank at the opening of navigation. As no report could be made until that time, they adjourned to meet the first Monday in June.

The committee met at Dubuque on June 5, 1838, and addressed to the cashier the following interrogatories:¹

First. What amount of discounts have been made since the examination in February last, and in what funds?

Answer. Thirty-eight thousand five hundred and twenty-one dollars and forty-eight cents since the examination in February, and principally in the notes of Michigan and Wisconsin Banks received in the course of our regular business.

¹ Journal of House, 1838, p. 87, et seq.

Second. Have you taken the Manchester and Jackson County Bank notes in payment of notes discounted by the bank?

Answer. We have invariably received the notes of the Jackson County and Manchester Bank, circulated by this bank, when offered in payment of discounted notes, but have redeemed such circulation principally in current Michigan and Wisconsin money.

Third. What is the present amount of your discounts?

Answer. \$80,880.53.

Fourth. What is the kind of funds on hand, of what banks and what amount of each?

Answer. Of the bank notes on hand, \$3,858 are in the notes of various Michigan chartered banks; \$2,804 in the notes of the Bank of Wisconsin; and \$576 in the notes of Illinois, Ohio, and Kentucky banks.

Fifth. What is the amount of the notes in circulation of your bank, the amount payable on demand as well as those payable after date?

Answer. \$11,030; \$460 payable on demand, and \$10,570 payable 12 months after date.

A statement of the condition of the bank was also furnished by the cashier.

STATE OF THE MINERS' BANK OF DU BUQUE, JUNE 4, 1838.

Banking house and lot.....	\$ 3,256.11
Real Estate.....	950.00
Bills Discounted.....	69,003.66
Contingent Expenses.....	2,417.79
Domestic Bills of Exchange.....	11,876.87
Bank of State of Missouri.....	500.00
Farmers' and Mechanics' Bank of Michigan.....	762.19
Bank of Mineral Point.....	318.37
Illinois Branch Bank at Galena.....	496.50
Suspense Account.....	4,453.98
Secretary of Wisconsin Territory.....	5,050.00
Notes of Other Banks.....	7,258.00
Cash items.....	576.68
Specie on hand.....	457.30
Specie in transit.....	20,000.00

\$127,377.45

Capital Stock.....	\$100,000.00
Discounts received.....	2,068.72
Profits and Loss.....	1,113.00
Special Deposits.....	2,753.00
12 Months in circulation.....	10,570.00
Notes on demand in Circulation.....	460.00
Individual Deposits.....	10,412.73

\$127,377.45

The committee called attention to the fact that the bank had not "complied with its charter, nor with its promises and engagements to the committee in the month of February, and at this time have but \$457.30 in specie on hand as the basis of their capital." The committee did not and could not consider specie "in transit" as worthy of being depended upon.

The committee thought the bank had "violated, misused, and abused the privileges of its charter in several instances"; that the individuals who owned the institution did not have it in their power to place it in a solvent condition, although they believed the directors desired and intended to do so; the state of the currency was such that the object could not be obtained; that there was little confidence in the bank, and from all that had been exhibited, it was the opinion of the committee that the charter of the bank should be annulled and vacated. They offered the following resolution:

Resolved, That the committee on corporations be instructed to bring in a bill to repeal the charter of the Miners' Bank of Du Buque, and so to provide in said bill for the settlement of the accounts of said bank, that the public may suffer as little as possible.

(e) The Memorial to the Legislature.

On the 18th of June, the memorial¹ of Francis Gehon, Peter A. Lorimer, Francis K. O'Ferrall, Robert D. Sherman, and S. D. Dickson was presented to the Legislative Assembly. This stated that on June 14, 1838, that they had personally examined the books, deposits, accounts, and exhibits of the

¹ Journal of House, 1838, p. 138, et seq.

bank, both in specie and funds of other description, and found the cashier's statement appended to the memorial to be true in every particular. They called attention to the change of ownership of the bank since its organization; and believed that under the directory, as constituted, the bank would be conducted on sound and safe banking principles and in such a way as to result advantageously to the community. They had "every confidence in the honesty and fidelity of the men" who were in the future to control the business management of the bank. They believed that the repeal of the charter or the suspension of its business would result in public injury. They expressed this opinion out of a sense of justice to the bank, the community in which they resided, and in reference to the facts and circumstances as they existed. These opinions were different from the ones they had entertained before the change had taken place in the stockholders and officers of the bank. They asked that the bank might receive the support and confidence of the Legislature.

STATE OF THE FUNDS OF THE MINERS' BANK OF DU BUQUE,
JUNE 14, 1838.

Banking house and lot.....	\$ 3,250.11
Real Estate.....	950.00
Bills Discounted.....	66,988.11
Domestic Bills of Exchange.....	11,876.87
Bank of the State of Missouri.....	500.00
Farmers' & Mechanics' Bank of Michigan.....	762.19
Bank of Mineral Point.....	318.37
Sec'y of Wisconsin Territory.....	5,050.00
Contingent Expenses.....	2,417.79
Suspense Acct.....	4,453.98
Cash Items.....	990.51
Notes of other banks.....	8,096.00
New York City Funds.....	10,000.00
Specie.....	10,496.81

\$126,150.74

Capital Stock.....	\$100,000.00
Discount Received.....	2,100.55
Profit and Loss.....	1,113.00
Special Deposites.....	2,600.00
Ill. Branch Bank at Galena.....	5.75
Twelve months notes in circulation.....	10,360.00
Notes on Demand in circulation.....	425.00
Individual Deposites.....	9,546.44
	<hr/>
	\$126,150.74

The bills discounted in February were \$40,809.05 and on June 4th had risen to \$69,003.66; in February out of a total of \$20,155.00 in bank notes, \$19,520.00 were in Jackson County and Manchester Bank bills; on June 4, the amount of bank notes of all kinds on hand were \$7,258.00 which are stated to be the notes of Michigan chartered banks, Bank of Wisconsin, and a few of Illinois, Ohio and Kentucky banks, showing that the increase in bills discounted had been caused by the putting into circulation of the notes of the insolvent Jackson Co. and Manchester banks. The putting of these notes into circulation was one of the principal objections by the committee to the continuance of the charter of the bank.

Nothing was done in regard to the revocation of the charter, for the Legislative Assembly received the news that the Territory of Iowa had been created by Congress and it adjourned to meet at Belmont in the Territory of Wisconsin.

5. *The Newspaper Correspondence.*

In connection with this report, it is necessary to consider a letter¹ of E. Lockwood, President of the Miners' Bank, which is an answer to a letter written from Dubuque and published in the Miners' Free Press² of the issue of February 2nd, 1838, as it clears up some of the methods of the organization and conducting of the bank's business, that are not shown in the report of the Investigating Committee. The first portion of the letter is taken up with a long statement, that may without

¹ Iowa News, February 10, 1838.

² Col. W. S. Hamilton, editor.

the loss of meaning be summed up in these words: "the entire object of the writer seems to be to mislead the public with regard to the bank."

The writer, in the Miners' Free Press, had stated that "the first installment was paid to the commissioners, and they supposed it had been deposited in the Bank at Galena, but it has been ascertained that instead of a deposit, it was returned there to pay a loan of the principal stockholders, except about \$2,000." The above statement is especially worthy of notice as it is one which is made use of in the later debates and newspaper articles against the bank. In reply to this Mr. Lockwood answers that this was not the case, at all. "The money, (\$19,612.50) was deposited in the Bank at Galena, and a certificate of deposit signed by Wm. C. Bostwick, Cashier, for that amount was given to me. It was made subject to the order of the Miners' Bank of Dubuque. Eighty-seven dollars and fifty cents should be added to that amount, which had been paid towards a building lot for the Bank, and the writer in the Miners' Free Press "can explain the *reason* why the remaining *three hundred dollars* was not paid over that time."

Another one of the statements made in the Miners' Free Press and which was also used as another argument, at a later period, by the opponents of the Bank, was that many of the persons holding only a small amount of stock immediately sold out to larger stockholders, receiving for their stock the notes of Michigan Banks (Jackson County and Manchester), the officers telling them that it was the only kind of money they had to pay them with. Lockwood denies that this was true and cites that the writer and his brothers were paid for their stock \$886.75 in specie, deducting their debts, the remainder "was paid in paper for which they can purchase mineral at \$20 per thousand." In continuation, he asserts that the other statements of the writer contain as much truth as the one referred to above.

In reference to Col. Hamilton's editorials in the Miners' Free Press, which contain the statements that "the transactions of the institution are as corrupt as possible" and that "its

conduct has already operated to injure the character of the place," Lockwood replies by calling attention to the reports of two committees from the Legislative Assembly "raised by the influence and exertion of disappointed individuals," do not justify the statement; and that he would not have paid any attention to the communications in the *Miners' Free Press* if it had not been for the Colonel's endorsement of them in the editorial columns.

He thinks that the editor of the "*Gazette and Advertiser*" in its call for information was really seeking for the facts in order to publish them, for the information of the community, such facts as would enable them to form a correct opinion as to the solvency of the institution. That he would have answered before, if it had not been that the Committee of Investigation, appointed by the Legislative Assembly, was in the place and he knew that their proceedings would be published.

In closing this letter, Mr. Lockwood states his relations with the Bank from the time of the application for the charter down to the time of the writing, saying in a somewhat climacterial closing, "it is now, and ever has been, my earnest desire to make it a sound and solvent bank, and conscious as I am of having pursued a steady and upright course, with the laudable ambition of rendering this institution not only an honor to Du Buque, but one of the best in this Western Country."

This warfare was not confined to the newspapers of Wisconsin, but was carried into the columns of the *Missouri Reporter*. The *Iowa News*¹ takes occasion to correct some of its strictures made upon the bank, by calling the attention of the editor to the published report of the committee of investigation and suggests that, in justice to the bank, corrections should be made in its columns.

¹ March 10, 1838.

CHAPTER III.

ON THE GENERAL STATE OF THE CURRENCY.

1. *Opposition to Small Bank Bills.*

Before discussing farther the history of the Miners' Bank of Dubuque, it seems proper to call attention to some points in the financial history of this period, that is, during the years 1836—38.

The people of this Territory in the main were opposed to the circulation of bank bills, especially of a denomination less than five dollars. Early in the session of the first Legislative Assembly of Wisconsin Territory, there was introduced in the House a bill¹ to continue in force an act of the Territory of Michigan to prevent the circulation of bills of a less denomination than five dollars. This bill by the suspension of the rules was rushed through the House; but on account of unfavorable circumstances did not pass the Council; a similar law was enacted later² in the Territory of Wisconsin.

2. *Scarcity of Silver.*

The Iowa News early³ in January, 1837, says that as yet we can not complain to a very great extent as to the exceeding scarcity of paper money in this section of the country, yet the want of silver is unprecedented. By some this is ascribed to the influence of the Treasury Circular,⁴ but by others to the illegal circulation of notes of a less denomination than five dollars; if these notes were refused by everyone, in six months time there would be plenty of silver in circulation. In July a

¹ Nov. 16, 1836.

² Laws of the Territory of Wisconsin, 1839.

³ January 18, 1837.

⁴ July 11, 1836.

notice of the illegal issue by the Bank of Wisconsin of these notes of a less denomination than five dollars is copied from the Green Bay Democrat.

3. *Stay of Execution.*

In his inaugural message to the Legislative Assembly of the Territory of Wisconsin delivered on Nov. 7, 1837, the Governor (Henry Dodge) urged¹ that a bill be passed allowing the Stay of Executions for one year. In closing his discussion of this topic of his message he says: "Debts have been created, when bank notes of different banks were in general circulation in this Territory, by many of the most industrious and enterprising citizens who no doubt believed they would be able promptly to meet their engagements." The bill failed to pass at this session although it was taken up for consideration several times.

4. *Public Opinion in Regard to Banks.*

The opinions of the people at this period in reference to banks seems to have been divided, irrespective of the lines of the party politics, into three classes: Those opposed to the granting of charters to private corporations for banking purposes, but in favor of a well-guarded system of free banks based upon sound financial principles; those not entirely in favor of the prevailing bank system, but who believed that carefully drawn charters should be granted to furnish a sound currency by the means of responsible banks located at home; those utterly opposed to any kind of paper currency and who wished for no other circulating medium than silver and gold. A typical statement from among the many found in the publications of this time is that of a writer under the pseudonym of "Interloper."² He felt satisfied from the various signs of the times that a new era would soon commence in this country in relation to banking; and felt that public sentiment was rapidly changing on this

¹ See Inaugural Message, p. 3.

² Published by request in Iowa News of January 18, 1837. First published in Milwaukee Advertiser.

subject, and that it would only be a short time until banking monopolies, "begotten by avarice, born in corruption and matured by fraud, which now throng the country, would be swept into oblivion; and a free banking system based on *real capital* and *real responsibility* will fill the void." In this communication he stated that remonstrances against "*our bank bill*" had been generally signed by the business men and citizens, petitioning Congress to refuse its approval of it; and if this should be done, it would render some aid in producing "this desirable result in our young and growing Territory." From this class and from the third class mentioned above, there were very many signers to the shower of remonstrances¹ poured in upon Congress against its approval of the charter of the Miners' Bank of Dubuque, the Bank of Milwaukee and the Bank of Mineral Point.

The results, in part, of the second class is shown in the attempts to pass other and more carefully guarded charters such as that of the bill to incorporate the Iowa Bank in the First Legislative Assembly, 1836; and the bills to incorporate The Bank of Burlington and The Bank of Racine in 1837; and which produced the more conservative charter² of The Bank of Wisconsin, located at Prairie Du Chien, which required one-sixth of the subscriptions to be paid in specie, and provided that the corporation could not contract debts to a greater amount than twice the amount of the actually paid up capital stock; the most prominent clause of all was that in regard to the "safety fund."

The third class might have chosen for their spokesman John H. Baker, candidate to fill vacancy in the House of Representatives, who closes³ his "Card to the Voters" with the following sentence: "I am opposed to the whole banking system, believing that we have no use for any better money than gold and silver."

¹ Presented to Congress January 1, 1837.

² Approved January 17, 1838.

³ Iowa News, July 1, 1837.

5. *Character of the Paper Money in Circulation.*

In the early portion of 1838, meetings of the business men and citizens were held in the different towns to consider the state of the currency, and to fix the rate of discount at which the so-called "good bills" would be received in commercial transactions. The results of the meetings held at Galena, although without the Territory but immediately adjoining it, may be taken as an example. The first public meeting was held on January 29, 1838, and a committee was appointed to report about two weeks later the discounts at which the various bank bills would be received in trade. The rates of discount were: "At ten per cent., the notes of the Farmers' & Mechanics' Bank of Detroit, State Bank of Michigan, Farmers' and Mechanics' of St. Joseph; at fifteen per cent., the notes of the Bank of River Raisin, Erie & Kalamazoo, Clinton, Ypsilanti, Calhoun, St. Clair, Tecumseh, Washtenaw, Constantine, Macomb, Green Bay, Lake Erie & River Raisin R. R. Co., all other banks of Michigan and Wisconsin twenty-five per cent.; and the notes of *all other Banks* not receivable in the Galena Branch of the Illinois State Bank at ten per cent. discount."¹

Not only was this portion of the Territory deluged at this time with innumerable counterfeits of various banks, including a large issue of counterfeits on the State Bank of Indiana, but also with a countless number of forged notes and notes of banks with no legal existence. An example of this last class even sprang into existence within the boundaries of this Territory. One sentence, in one of the many notices,² in regard to the issues of this bank, The Prairie Du Chien Ferry Co. Bank, conveys to the modern reader a vivid idea of one of the queer financial views of this time. The sentence referred to is: "We have seen a bill purporting to be on the 'Prairie Du Chien Ferry Co. Bank,' but we do not know

¹ Iowa News, February 17, 1838.

² Iowa News, March 31, 1838.

whether the persons¹ who sign these bills as President and Cashier are men of property or not; yet, the safest plan will be to refuse them."

A newspaper advertisement of one of the merchants of Dubuque, inserted in the Iowa News of April 14, 1838, shows some of the peculiarities of the currency of the time, and the light in which it was viewed, at least by one merchant:

NOTICE.

Tis better from evil well foreseen to run,
Than perish in the danger we may shun.

My specie traps and Benton bullets being exhausted, I became overpowered with 'Wild Cat,' and in my own defense have shut the doors of my menagerie.

Now that I have got the animal conquered, those of my old friends and customers who are in debt to me will please favor me with a few more specimens of the breed. In the future, however, I will prefer the Sucker, Puke or Hoosier *Tame Cat*, and occasionally one of the old domestic species of Buckeye or Corncracker. In a few days my doors will be thrown open to public patronage, but I will never again entrust my person or property to those crazy animalculæ imported over the mountains or lakes. The far fetched I leave to ladies.

CHARLES CORKERY.

April 14, 1838.

In April, 1838, the circulation of the northern portion of Wisconsin Territory was made up almost wholly of the notes of the banks organized under the general banking law of Michigan. The Bank Commissioners, who had been appointed, were diligent in the performance of their duties and had reported² among the long list of the banks that had forfeited all claims to public confidence the Bank of Manchester and Jackson County Bank. The notes of these two banks had constituted the principal portion of the circulation of Dubuque County up to this time.

¹ "A bank was started this year (1837) called the Prairie Du Chien Ferry Co. Bank. Handsome bills were issued. George W. Pine, President. H. W. Savage, Cashier. It did not circulate well here, as it had no charter. It did less damage than most of the wild cat institutions of that day." P. 12, *Annals of Prairie Du Chien*, by S. Burrie.

² Senate Exec. Doc. No. 38, 52d Cong. 2d Session, p. 34.

The Miners' Bank of Dubuque had put a large amount of these notes in circulation. Of these notes given out to its customers it had been redeeming some with current notes of banks, and receiving some on debts due the bank. By these two methods it had already redeemed the larger part of this depreciated money, with which it had been largely instrumental in flooding the channels of trade.

St. Louis bankers and merchants, at this time, refused all kinds of bank notes except those of Illinois, and the general tenor of public opinion was that even this bank would not long retain its credit. For it had commenced operations in a manner unsatisfactory to many of the people, and had issued notes to a very large amount, and by means of legislation, that many deemed corrupt, it had been able to suspend specie payment for eighteen months. And the general opinion seemed to be that notwithstanding the interest on this large amount of "Suspended specie payment notes," that it was probable that it would yet be forced into the footsteps of the banks of Michigan.

By the middle of June,¹ the Mineral Point Bank gave notice that it would take the notes of the Bank of Milwaukee, as a specie paying bank; and by this time the general opinion seems to have crystalized into such a shape as to lead the people to believe that the banks of Wisconsin Territory were upon as sound a basis as the State Bank of Illinois. Of this opinion they were to be disabused, at least in part, a little later.

According to the Burlington correspondent of the Iowa News,² the people of that city were still heaping maledictions upon the unfortunate head of the Secretary of the Territory because he had at the close of the last session of the Legislative Assembly paid out a large amount of these Jackson County and Manchester Bank bills. Over seven thousand dollars of them had been paid to residents of the city, a large portion of that amount was still there with the likelihood of remaining permanently unless he would redeem them.

¹ Iowa News, June 16, 1838.

² Ibid.

6. *The Governor's Recommendation.*

From April to June of this year, there was a falling off in the amount of currency in circulation and its character had deteriorated more rapidly than the fall in volume. So serious in character had the financial condition become that the Governor in his annual message¹ to the Legislative Assembly said: "Should the bill now depending before Congress of the United States for the establishment of two land offices West of the Mississippi River, become a law, and should the lands be opened for sale under the proclamation of the President of the United States during the present year, many of our citizens who might be entitled to purchase public lands (should the right of pre-emption be extended to them) would not be prepared to pay for their homes. I respectfully and earnestly recommend to the Legislative Assembly the justice and propriety of memorializing the President of the United States on this subject, asking him to defer the sale of public lands within this Territory, for one year. The present state of the currency and the difficulty of procuring land office money would justify the indulgence proposed for the benefit of this meritorious class of our citizens who have a right to expect justice and the patronage of the government will be extended to them."

¹ June 11, 1838.

CHAPTER IV.

BANKING IN IOWA FROM 1838 TO 1841.

1. *The Third Investigation.*

Early in the session of the first Legislative Assembly of the Territory of Iowa, November 28th, 1838, Stephen Hempstead¹ offered a Joint Resolution² in the Council to investigate the affairs of the Miners' Bank of Dubuque. The Resolution was passed by the Council without amendment on the same day, and was read the first time in the House; on the following day it was concurred in by the House.

The committee consisted of three members, one from the Council and two from the House. Warner Lewis was appointed by the Council; and Nowlin and Hall by the House. Hall was one of the Representatives from the district consisting of Jackson, Dubuque and Clayton Counties.

The committee was authorized by this resolution to proceed immediately to Dubuque, and investigate the affairs of the Miners' Bank. They were to examine all books, papers, accounts and certificates; count the gold, silver and bankable paper in the vault; determine the amount of deposits; and examine "into every act or acts of said bank which relates or may relate, in any manner, to the fiscal management of the same;" to examine under oath the President, Cashier, or any other officer upon any acts that related to the management of the bank. In order to punish any of the witnesses for perjury, if it should be committed, a provision new to resolutions appointing "committees of investigations" was introduced: "If the said President, Cashier or other officer, to whom oath shall be administered, shall swear or affirm falsely, in

¹ Governor of Iowa, 1854.

² Laws of the Territory of Iowa, 1838-39, pp. 515-16.

answer to any interrogatory propounded by said committee, or to any affidavit required by said committee, such President, Cashier, or other officer, shall be deemed to have committed the crime of perjury and shall be punished as the laws of this Territory require." It could not be claimed that the officers of the bank had sworn falsely in making their report to this investigating committee and that there was no law to punish them.

The committee had the power "to send for persons and papers" and examine the persons under oath as to their knowledge of the management of the bank. The committee did not take advantage of the first provision in the resolution, in making the investigation.

As soon as possible after the investigation, they were to make a full and complete report of the results of their examination to the Council and House of Representatives.

The committee proceeded immediately to Dubuque and on the 6th of December, 1838, submitted the following list of questions to T. O. Martin, Cashier of the Miners' Bank of Dubuque:

- 1st. What is the amount of deposits on hand?
- 2nd. What is the amount of profit on hand?
- 3rd. What is the amount of bills in circulation?
- 4th. What is the amount of debts due from the directors and stockholders?
- 5th. What is the amount due from other persons or corporations?
- 6th. What is the amount of specie in bank and actually belonging to the bank?
- 7th. What amount of bills of other banks have you on hand, actually belonging to the bank?
- 8th. What is the amount of your deposits in other banks; if any, what banks are they?
- 9th. What amount of real estate is owned by the bank?
- 10th. What is the amount of other property?
- 11th. What is the amount of capital stock actually paid in?
- 12th. What is the character of the issues of the bank; are they post notes, or payable on demand, and what is the amount of each?

13th. Are any other banks or corporations indebted to the Miners' Bank? if any, what, and what amount?

14th. What is the amount of debts that the Miners' Bank owes at this time, whether by bond, bill, note, post note, or other contract?

15th. Has the Miners' Bank ever taken more than seven per cent. upon its loans?

16th. What amount of capital stock was paid in, before the bank commenced its operations?

17th. What is the character of your deposits, are they general or special?"

In answer to the interrogatories of the committee, the Cashier of the bank made the following statement:

State of the funds of the Miners' Bank of Du Buque, Dec. 7th, 1838:

Capital Stock.....	\$100,000.00
Profits on Hand.....	3,935.61
Circulation.....	10,990.00
Post Notes.....	5,035.00
Individual Deposites.....	3,686.39
	<hr/>
	\$123,647.00

Real Estate.....	\$ 4,206.11
Stocks	1,000.00
Bills Discounted.....	71,597.72
Contingent Expenses.....	6,244.13
Profit and Loss.....	4,363.98
F. & M. Bank of Michigan.....	762.19
Exchange Account.....	6,344.00
Territory of Wisconsin.....	5,050.00
St. Louis Funds.....	1,678.00
Notes of other Banks.....	18,874.00
Cash items.....	493.87
Gold and Silver.....	3,033.00
	<hr/>
	\$123,647.00

MINERS' BANK, DU BUQUE, December 7, 1838.

Gentlemen:—I hand above, a statement of the affairs of this bank, as requested by you in person yesterday. I also annex

answers to such of your questions, as are not replied to by the statement itself.

I am very respectfully,

Your obedient servant,

T. O. MARTIN, Cashier.

Warner Lewis and others, committee of investigation.

For answers to No. 1, 2 and 3, see statement.

To No. 4, I answer fourteen thousand, four hundred and fifty-two 76-100 dollars. From 5—14, inclusive, see statement.

To No. 15, I answer, the Miners' Bank has never knowingly taken more than seven per cent. on loans.

To No. 16, fifty per cent. of the capital stock, was required to be paid in before the bank could legally commence operations.

To No. 17, our deposits are generally of a special character, and made to apply on notes not yet due.

T. O. Martin, Esq., Cashier of the Miners' Bank of Du Buque, being duly sworn by the chairman of the committee of investigation, says: "that the foregoing answers to the interrogatories propounded, and the expose of the condition of the bank, is true and correct, according to the best of his knowledge and belief.

T. O. MARTIN, Cashier.

Subscribed to and sworn to before me,

WARNER LEWIS, Chairman of Committee.

Which statement your committee carefully examined and compared with the books and vaults of the institution, and is, in their opinion, a true exposition of the condition of the bank, from which it appears that the amount of *cash on hand* nearly doubled the amount of the liabilities of the bank.

Your committee would further state that every facility was afforded them for making the investigation, through the politeness of T. O. Martin, Esq., Cashier, and upon a full and fair investigation of its liabilities and resources, your committee are constrained to believe that the Miners' Bank of Du Buque, is in a safe and solvent condition.

WARNER LEWIS,
HARDIN NOWLIN,
JAMES HALL.

NOTE—This Report was concurred in by both Houses; Journal of House, p. 132.

2. *The Results of the Investigation.*

The investigation called for by the appointment of this committee evidently originated in the local prejudices against the Miners' Bank.

It was the third time that the local bickerings had brought a committee to make an investigation of its affairs.

The report of the Investigating Committee does not throw any light upon some of the disputed points of its organization. The old question of how much of the stock was paid in before the bank commenced operations yet remained unanswered. The reply of the Cashier to the question was evasive, as shown by the language of his answer, that: "fifty per cent. of the capital stock was required to be paid in before the bank could legally commence operations."

The "Bills Discounted" account had risen to \$71,597.72, over one-fifth of which had been borrowed by the officers and directors of the bank ; in the former report only about one-seventh of the loans were made to the directors.

The character of the circulation had changed, although the total still remained small. The demand notes during the past year had been issued to more than twice the amount of the post notes. The amount of specie for redemption of circulation was very low ; less than one dollar of specie for every five of bills issued. The individual deposits still remained small and were of a special character.

This report gave entire satisfaction to the members of the Legislature, and no further action was taken in regard to the condition of the bank until the beginning of the Legislative Assembly of 1841, when other and new factors entered into the discussion of its affairs.

3. *The Proposed Bank of Charleston.*

A petition¹ of the citizens of Jackson County, praying for the establishment of a bank at that place was presented to the

¹ Journal of House, 1839, p. 140. Original in Sec'y State's office, No. 2212, B. 381.

House of Representatives on December 27, 1838. It was signed by fifty-three petitioners. The petition stated that in order to increase the ordinary means of transacting business in a country destitute of capital, that some measures should be taken to increase the advantages. The bank was to be located in the village of Charleston, in Jackson County, and it was asked to have the rights and privileges incorporated in the charter that were generally granted to banks; and that the bank might commence business with a capital not exceeding fifty thousand dollars, which could at the will of the stockholders be increased to two hundred thousand dollars. It was referred to the Committee on Incorporations and was never heard of again during that session.

4. *Condition of the Miners' Bank in 1841.*

In an Executive Document¹ of the 26th Congress there is found an interesting letter written by Governor Lucas of Iowa as an answer to the inquiries of the Secretary of the Treasury in regard to the forwarding of a report on the condition of the banks of Iowa.

The Governor wrote that a statement of the condition of the one bank in Iowa was not required by law; and that the latest information that he could furnish him with was a copy of the report of the Legislative Committee made in 1838, and a letter written by Mr. Bainbridge, (President of the Legislative Council). In answer to the Secretary's questions Mr. Bainbridge, under the date of December 14, 1840, wrote that personally he knew nothing of the condition of the Miners' Bank; but in October, the Cashier had informed him that the circulation was less than \$40,000. From other sources, in which he had the fullest confidence, it had been stated to him that there was more than \$45,000 of specie in its vaults, and he had no idea of the amount of notes. It was his personal belief that the bank had never failed to redeem its notes in specie. And in conclusion he stated that "the people in the

¹ Exec. Doc. 111, 26th Cong. 2nd Sess., Vol. IV, p. 1416.

Northern part of the Territory have the utmost confidence in the institution." This meagre statement is all that we know of its condition in the latter part of 1840.

5. *The Loan of the Miners' Bank to the Territory of Iowa.*

On January 15, 1841, there was approved an "Act¹ authorizing a Loan of money to be expended on the Capitol." On account of the financial condition of the Territorial Treasury, it became necessary to secure a loan of money to cover the expenses attendant upon the continuance of the work of erecting the Capitol. The Territorial Agent, Jesse Williams, was authorized to make such a loan to an amount not exceeding twenty thousand dollars, if it could be made by pledging the faith of the unsold lots in Iowa City. In accordance with the provisions of this act, the Territorial Agent secured a loan of five thousand dollars on June 28th, 1841, due in eighteen months after date, payable at the Bank of America in New York City. The interest to be paid quarterly, at the State Bank of Missouri, in the city of St. Louis. On September 30th of the same year another loan of only five hundred dollars was made, payable at the State Bank of Missouri nine months after date. These loans were negotiated at the rate of seven per cent. per annum from the Miners' Bank. The act was repealed by the Legislative Assembly of 1841-42.

6. *The Panic of 1837 and General Suspension of Specie Payments.*

On the 10th and 11th of May, 1837, the New York banks and the Natchez, Miss., banks suspended specie payments, and as fast as the news spread to the cities, East, West, North and South, the other banks of the United States suspended also. In this general suspension of specie payments the banks of New England were included, as they were not in the suspension of 1824. All the New York banks, including the deposit banks, continued this suspension of specie payments

¹ Chapter 72, Laws of the Territory of Iowa, 1841.

until May 10th, 1838, without any violation of their charters. In August, 1838, the banks of Philadelphia resumed specie payments; and by the 1st of January, 1839, there was at least a nominal resumption of specie payments throughout the Union. From 1837 to 1841 there was great distress among the people of the country, especially in the well-settled Eastern states. Prices were abnormally high, and inflated land values in the Western states and territories collapsed as the currency depreciated. Although business throughout the country was revived slightly in 1838-9, the weak and crippled condition of the banks in general made them easy victims to the so-called "after panic of 1839." The immediate cause of this after panic was the failure of the United States Bank of Pennsylvania, immediately followed by the suspension of all the banks of Philadelphia. By the end of the year 1839 out of 957 banks and branches in the United States 343 of these had suspended specie payments entirely, 62 in part, and 56 had failed; during that year only 48 of the suspended banks had resumed specie payments. The State Bank of Missouri did not suspend specie payments on its own notes, but as it traded on the notes of other Western banks, it became an issuer of inconvertible paper money. The banks of Rhode Island soon resumed specie payments. The banks of South Carolina resumed specie payments in July, 1840, and all the other banks to the South and West of New York, with the exception of East Jersey and a few scattered banks of different places continued to refuse specie on demand. On January 15th, 1841, the banks of Philadelphia resumed specie payments and sustained them for about twenty days. They then for the *fourth* time suspended specie payments and did not resume again until the 10th of March, 1842.

In November, 1839, the State Bank of Indiana suspended specie payments, but left it to the discretion of the branches as to whether they should suspend specie payments or not. During the year 1840, ten of the branches did not uniformly

¹ Report of Secretary of Treasury, January 8, 1840.

pay specie upon their notes and it is probable that the other three branches would have refused to pay specie if their notes had been presented in any large amounts by people from without the state. This bank resumed specie payments in accordance with an act of the Legislature on June 15th, 1842, and never defaulted again.

By an act of special session of the Legislature of Illinois, the State Bank of Illinois was authorized on the 10th of July, 1837, to suspend specie payments without forfeiture of its charter. This was to continue in force until the next special or general session of the Legislature. It was necessary that certain provisions should be followed by the banks in order that this suspension should be legalized. They were to make no dividends before resuming specie payments; nor to dispose of any specie except for change and for no sums over five dollars; make monthly returns to the Governor; not increase its circulation beyond the amount of the capital stock actually paid in; receive and pay out any funds belonging to the state free of charge and to allow such of its debtors as were citizens or residents of the state of Illinois to pay their debts in installments of 10 per cent., upon their executing new notes with approved security. They were to surrender their charter if any of these conditions were violated. Before December, 1838, they had all resumed specie payments. In 1839 the suspension of specie payment was again legalized against the Governor's recommendation to the contrary. The conditions of suspension were the same as those of 1837. In January, 1841, the condition of suspension of specie payment was legalized until January 1st, 1843. But by that time the affairs of the bank had reached such a state that it was necessary to pass a law to close up its business.

In 1842 the condition of affairs was such that there were 32,899 applications for the benefit of the bankrupt act in the United States, excluding North Carolina, Louisiana, Western Mississippi and the Territory of Iowa. Of these 34 were discharged.

The condition of the people of the United States subsequent

to the panic of 1837 and 1839 was deplorable. The North American Review for January, 1844, fully described their condition:

In some of the new states, it was difficult even for the wealthy to obtain money for the daily uses of life. We have heard of farmers, owning large and well-stocked farms, who could hardly get money enough to pay postage on a letter. They had scarcely any currency, and most of that which they had was bad. In the commercial states, matters were but little better. Failures were almost innumerable. Trade had fallen off, and, when prosecuted, was hazardous. A deep gloom settled upon men's minds. * * * * The physical means of making payment of their debts were wanting in some states, for there was no money to be had.

The Standard¹ of February 19, 1840, in an article on "Tinkering with the Currency" gives a graphic description of the general condition of the Territory as viewed by a Whig newspaper: "This Territory has not passed unscathed through the disastrous revulsions which have followed so close upon the track of the Administration upon the country. You were not affected by the evils following from the 'Tinkering with the Currency' as soon as the older sections of the country, but you felt its withering blight none the less forcibly. It lost none of its power from the distance, which intervenes between our beautiful Territory and the commercial emporiums of our nation. You have felt the effects in the scarcity of money and the low price of the productions of the prolific soil of our Territory, and you have seen in the 'Tinkering with the Currency' the effects in the check which emigration has received."

The condition of the farmers of Iowa in part is told in a communication in the Iowa Standard of March 3, 1840: "We are many of us in debt. We came here some two, some six years ago to settle upon land that was not in the market and was not expected to be for some time after we were settled. By the opening of the Government Land offices for the sale of the land we are now obliged to borrow money at from 25

¹ Of Bloomington, Iowa.

per cent. to 75 per cent., and pledge our homes for the payment of these debts. The prices of all products are low and it is almost an impossibility to sell enough of them to pay the taxes upon our property."

7. *Suspension of Specie Payment by the Miners' Bank.*

The Miners' Bank of Dubuque formally suspended specie payments on March 29, 1841, by the official adoption by the directors of a preamble and series of resolutions.¹ These state the condition of the bank and the reasons for its suspension. From the resolutions it is found that it was the intention of the bank to have continued specie payments; and that it would have been "entirely convenient" for the bank to have redeemed the amount of outstanding notes that would have returned to it in the course of its ordinary business. But the course pursued by a large banking firm in St. Louis forbade its carrying out its original intentions. While discrediting the notes of the Miners' Bank in St. Louis this firm purchased the notes in large quantities and demanded specie for them, using it for "speculation purposes." The directors deemed this an advantage to a few persons but a detriment to the bill holders at large, as well as making it an expensive operation for the bank to maintain the resumption of its notes in specie. Therefore, out of regard for its own, as well as its creditors' interests, the bank declined to pay specie upon its notes, "except in small amounts as shall be required for the convenience of transacting business." The directors stated that there was "no well-founded cause for alarm upon the part of the bill-holders, as regards the ultimate ability and disposition of this bank to redeem its liabilities." In the resolutions they call attention to the statement of the condition of the bank which has been prepared "with a particular regard to the accuracy in setting forth the amount of Liabilities and Assets of this bank." They promise to publish a quarterly statement of the bank's condition, during the suspension of specie payments, for the

¹ Iowa Standard, April 16, 1841.

satisfaction of the community and the bill-holders. The statement of the condition of the bank gives the following items:

LIABILITIES:

Capital Stock.....	\$100,000.00
Specie deposited to apply on notes Discounted....	3,550.00
Individual Deposites.....	6,099.00
Discounts Received.....	1,764.48
Notes in Circulation.....	97,005.00
Total.....	<u>\$208,418.48</u>

ASSETS:

Real Estate.....	\$ 14,658.14
Bills Discounted.....	80,314.36
Bills of Exchange and Bills Discounted Payable at St. Louis.....	30,969.00
Due from other Banks.....	1,504.84
Due from St. Louis Agency.....	22,485.14
CASH—	
Notes of other banks, current.....	6,880.00
Cash Items.....	395.00
Certificate for Deposit of Specie in St. Louis....	7,500.00
Notes of Bank of Missouri.....	3,660.00
Gold and Silver on Hand.....	40,051.99
	<u>\$208,356.99</u>

March 29, 1841.

T. O. MARTIN, Cashier.

CHAPTER V.

BANKING IN IOWA FROM 1841 TO 1844.

1. *The Attitude of the Fourth Legislative Assembly.*

At this time the Democratic party in many of the different states of the Union was taking a decided stand in favor of forcing all the banks into a speedy resumption of specie payments. There was a general tendency to make those that could, resume specie payments and to force those that did not have the ability to resume, to the wall. There was a strong feeling in the party that the "rotten concerns must go by the board" and there was a seemingly concerted action to carry out this thought.

So the Miners' Bank again became a topic of discussion in the Legislative Assembly during the session¹ of 1841-42, appearing in the form of Joint Resolutions and Bills in the Council and the House.

In the Council two Joint Resolutions, an Act, and a Resolution originated. Leffler of Des Moines County on January 20, 1842, introduced a Joint Resolution² authorizing an investigation by a joint committee of the Miners' Bank of Dubuque, which was passed on the same day and referred³ to the House. Springer introduced on February 2, 1842, a resolution requiring the Cashier of the Miners' Bank of Dubuque to furnish to the Council a sworn statement of its affairs. This was adopted. Mr. Bainbridge⁴ presented the statement of the Cashier.

¹ Continued from December 6, 1841, to February 18, 1842.

² Journal of Council, 4th Legislative Assembly, p. 100.

³ Ibid, p. 135.

⁴ Ibid, p. 137.

Statement of the affairs of the Miners' Bank of Dubuque,
January 1, 1842:

LIABILITIES:

Capital Stock.....	\$100,000.00
Discounts Received.....	880.27
Due Depositors.....	5,094.25
Special Deposites.....	3,069.60
Notes on Special Deposit with other Banking Institutions.....	46,000.00
Bank Notes in Circulation.....	167,030.00
	<hr/>
	\$322,074.17

ASSETS:

Real Estate.....	\$ 14,973.14
Personal Property.....	5,682.03
Stocks	8,000.00
Loans and Discounts.....	151,976.94
Bills of Exchange.....	11,588.75
Due from other Banking Institutions.....	53,763.65
Notes of other Banks (chiefly Illinois).....	32,812
Gold, Silver and Notes of State Bank of Missouri	43,277.66
	<hr/>
	\$322,074.17

I hereby certify that the foregoing is a correct statement of the affairs of the Miners' Bank of Dubuque, according to the best of my knowledge and belief.

T. O. MARTIN, Cashier.

Sworn and subscribed before me, this first day of February, 1842.

JOHN HAWKINS, Justice of Peace.

This was referred to the committee of the whole. The Council then resumed its sitting as a committee of the whole¹ on the Joint Resolution (C. F. No. 95) requiring the Miners' Bank of Dubuque to resume specie payments. No day being named for the resumption, Mr. Bainbridge of Dubuque moved that the blank be filled with August 1st. This date was adopted. The resolution was then reported to the Council. Mr. Green of Linn moved to insert March 1st instead of the later date ;

¹ Journal of Council, 4th Legislative Assembly, p. 137.

and from this motion sprang up one of the most spirited debates of this session of the Legislative Assembly. By this debate the Miners' Bank of Dubuque was introduced into the arena of party politics.

In all of the different Legislative Assemblies preceding this, the members had been elected upon purely local considerations, the questions of party not affecting the results at all. But a large portion of this particular Assembly had been elected upon the basis of party principles, the rest upon local considerations. Not only in the Council, but also in the House, during this session the bank was attacked, not because of any of the characteristics of this particular bank, but because it was a bank. The Democratic members as a whole based their speeches in opposition to it upon the principles which had generally governed the banking system. It was written of it at at this time: "Her notes form a very inconsiderable portion¹ of the circulating medium of the Territory." From this time on the bank was not only to be bruised for its own misdeeds, but was to be ground between the millstones of party politics. From this time on, until the introduction of the National Banking System and the doing away with the State Bank of Iowa, the party lines were to be drawn, more or less tightly, always enough to be felt. There was no ceasing by the most radical wings of either the Whig, the Democratic, or the Republican party.

These conditions must be borne in mind in judging the future action of the people in their consideration of the banking system. It will not be the system alone that will be considered, but there will always be behind it the thought of the system as a banking system, irrespective of the principles governing it.

(a) Position of Democrats in the Council.

Bailey of Van Buren spoke² in opposition to the amendment and denounced all of them as "swindling machines, festering with corruption." Continuing in his speech, he adverts to the

¹ Capital Reporter, December 23, 1841.

² Iowa Standard, February 5, 1842.

late bank riots¹ and claims that the 1st of August, set as the time of resumption by most of the Western banks, will see the most of them go down in a general crash. In the latter portion of his speech, he said: "If the Legislature should fail, or refuse to act promptly in this matter, that the people of Iowa would be justified in taking the matter into their own hands and taking summary vengeance on the bank."

Hall of Van Buren replied to the somewhat demagogic utterances of his colleague and was opposed to the Council doing anything, but if it must do something, he was in favor of serving it the same as other Western banks and defer the resumption of specie payments until the 1st of August.²

Bainbridge of Dubuque was opposed to mobs and hoped to never see one in Iowa; but, if one occurred, it was his wish that the people would be hung.³ He re-asserted that up to this time there was no dissatisfaction with or "excitement" against the bank in the community where it was located; that "the great body of the people had been benefitted by and were perfectly satisfied with the operations of the bank." He called the attention of the Council to the fact that it had paid specie longer than any other Western institution, and only suspended in self-defense. That since its general suspension it had paid out thousands of dollars in specie to settlers who had needed it to enter their lands, and had never refused it for that purpose. He affirmed that the statement of the cashier showed its solvency; and that if it were compelled to resume and maintain specie payments, the result of it would be that the banks of neighboring states, where suspension was legalized, would drain it of its specie, while their own notes might be in its vaults and would not be available until general resumption. This would be of benefit to the bankers of St. Louis, but the poor farmers and mechanics of Iowa would have to sacrifice their notes or wait twelve months for the settling of the affairs of the bank. In closing he said that the

¹ In the cities of the Eastern States.

² Iowa Standard, February 5, 1842.

³ Ibid.

"Democracy of some gentleman demanded the abolition of all banking institutions, but his did not carry him so far."

Green of Linn was of the belief that the whole system was of the tendency to deprive the laborer of the product of his toil, and give it to some rich broker or speculator. He called attention to the common custom of contractors buying up the depreciated notes of Ohio and Michigan at enormous discounts and paying their hands with them at their face value. The people everywhere were redressing the wrongs which they were suffering from banks.¹ For himself he knew nothing of this bank or its operations, he was simply speaking of the principles governing the system. It was only a matter of expediency that he would vote for March 1st. A very incendiary portion of this speech, as reported, not quoted, led to a denial of it by Green in the Capital Reporter and an affirmation of the correctness of it in the Standard by the editor and a correspondent.

Parker of Scott was opposed² to the Legislature taking any action upon it; if there was any question of the bank having forfeited its charter, it should be tried before the "proper tribunal." He felt that his constituents did not have any interest in the concerns of the bank. Personally, he would not vote to deprive any creditor of his just dues and was opposed to all form of stay laws.

The committee of the whole now reported³ it back to the Council with the blank filled with August 1st. Green following his former course moved to change August 1st to March 1st.

This caused Leffler to give a clearly defined statement of his position.⁴ From the standpoint of wrong, it was as unjust to insert March 1st as August 1st. The certain effect of passing it as amended March 1st would be to give the gold to the St. Louis brokers and leave the bank without any specie to redeem its notes in the Territory. This would be

¹ Iowa Standard, February 5, 1842.

² Ibid.

³ Journal of Council, p. 137.

⁴ Iowa Standard, February 5, 1842.

an injustice to the people living in the river counties who were interested in the action of the Council. He did not wish to legislate for the bank, but for the people, and would not permit himself to be swayed by prejudice, but intended to do justice to all parties; and thought August 1st to be for the best interests of the people.

Hastings of Muscatine was opposed to giving a day to the bank and personally believed in taking the democratic stand in opposition to banks. At this time the expression "bank suspension" had simply become a "trite phrase" behind which was the hiding place of insolvency and fraud.

The motion to insert the 1st of March was lost; and the resolution was referred to the Committee on Incorporations¹ which consisted of Green, Bailey and Kirkpatrick, to which Bainbridge and Wallace were added.

On the following morning the Committee on Incorporations reported a bill² (C. F. No. 103) as a substitute for the Joint Resolution (C. F. No. 95). This bill required that the bank not only resume but continue specie payments on and from March 1st, and made provisions for the appointment of receivers to close up its affairs if it failed to do so. It was read a first and second time and then considered in the committee of the whole. During its consideration in the committee of the whole, but one amendment was made—the changing of the time of resumption to August 1st.

(b) Position of Whigs in the Council.

As the debate upon the previous day had unmasked the Democratic position in reference to banks, the debate of this day was to develop the principles upon which the Whigs were to rally in support of the bank in the future contests about it and the principles of a banking system. Bainbridge of Dubuque regretted that he had not been permitted to meet with the committee which had "concocted and reported" the

¹ Journal of Council, p. 138.

² Iowa Standard, February 5, 1842.

bill as "he believed that he could have convinced them that the Legislature had no right to pass such a law." The question of the propriety of repealing belonged to the Judiciary,¹ and the Legislature had no right to act until the trial and conviction of fraud on the part of the bank. The Legislature in granting this charter had entered into a contract with the corporation, as was witnessed by the decisions of the Supreme Court of the United States. One party to a contract could not break it at his pleasure. He then quoted from 2 Kent 305; 7 Cranch 164; and 9 Cranch 43 in support of the application of this principle to the principles he had laid down.

Kirkpatrick of Jackson followed with a written speech filled to repletion with party politics, and blows at the Democracy of those that were supporting the bank² at this time. He stated that when the cloak of hypocrisy was thrown off from the bank defenders, there was always discovered a mass of corruption and that always emitted the blue light of Federalism. He represented a part of the bank district but that "neither life nor death, nor angels, nor principalities, nor powers, nor things present, nor things to come, would ever be able to separate him from the good principles of old-fashioned Democracy," or cause him to "budge an inch" in voting upon this vital question. One facetious reporter has chronicled that here the speaker "Got mixed."

Hastings of Muscatine stated that he was in favor of immediate repeal and boldly avowed that it was "his object to cripple the bank and do her all the injury in his power."

Here it was again amended so that resumption should take place on March 4th.³

Coop of Jefferson introduced an amendment⁴ which, with Hastings' modification, took the form of Section 4. "Nothing in this act shall be so construed as to legalize the suspension of specie payments, or any other violation or abuse of the

¹ Journal of Council, p. 144.

² Iowa Standard, February 5, 1842.

³ Journal of Council, p. 143.

charter of said bank. This was adopted by a vote of 9 yeas to 4 nays.

After an ineffectual attempt to postpone indefinitely the whole question, Bainbridge moved¹ to strike out the "4th day of March," and insert "the first day of August, 1842, provided, that said bank shall resume at as early a day, prior to the first day of August, as the Illinois Banks or the Bank of Indiana." This was adopted by a vote of 7 yeas to 6 nays.

Coop then offered² as Section 5, "That all persons resident within the Territory, who may be indebted, either by promissory note, bill, bond or account, or by verbal contract, or any other indebtedness whatever, to said bank, shall not be compelled by any law now in force, or hereafter to be enforced, in this territory, to make payment to said bank previous to resumption of specie payment by said bank." This was opposed by Bainbridge on the ground that it would necessarily be a law which "impaired contracts." At this point in the debate, there occurred a series of speeches in which Bailey of Van Buren, Hastings of Muscatine, and Bainbridge of Dubuque tried to prove, each for himself, that he was a Democrat.

Wallace of Henry argued that the Council was not informed upon the wishes of its constituents as it had received no petitions from them; and that the Council had no evidence that would incriminate the bank of fraudulent action.

After an attempt to lay the amendment upon the table, it was passed³ by a vote of 7 yeas to 6 nays; and the bill was to be engrossed and read a third time the following day.

After the reporting⁴ of its correct engrossment and upon the discussion of the question of its passage, Parker of Scott insisted that the proper course for the Council to have pursued would have been to appoint a committee to investigate it, and

¹ Journal of Council, p. 144.

² Ibid, p. 144.

³ Ibid, p. 145.

⁴ Ibid, p. 150.

if fraud was discovered, to close the bank up immediately. Bailey was opposed to the tying of the Council by technicalities. The bill passed¹ by a vote of 7 to 6. The title was then amended so as to read "An act to require the Miners' Bank to resume specie payments, and for the relief of the debtors of the Bank in the Territory."

(c) Action of the House.

In the House the question of the Miners' Bank came up for discussion² on the 21st of January in the form of a Joint Resolution, authorizing an investigation of it. An attempt by Grant to have it postponed indefinitely failed, and then an attempt was made to offer a substitute³ which required the President and Cashier to make a report upon its condition as required by the seventh article of incorporation. This failed of passage. After an attempt, which failed, of having it read ⁴ a third time, under a suspension of the rules, a number of dilatory motions were made, but finally the time fixed for the third reading⁵ was February 18th; this proved to be the day upon which the Legislature adjourned.

On the 24th of January, an act⁶ compelling the Miners' Bank to resume specie payment was introduced in the House and read a first time; on the 31st it was taken up for consideration.⁷ The bill, as it had come from the committee of the whole, was so amended as to leave the time open for resumption of specie payments until the other Western banks resumed. The House disagreed to this upon a vote of 17 nays to 6 yeas. Two Whigs, Moss and Smead, voting in the negative; and two Democrats, Booth and Lewis, in the affirmative. Booth and Lewis were from Dubuque County.

Two amendments were made fixing the time of resumption at "March 1st" and "August 1st" respectively. A spirited debate arose upon these two amendments. The principal

¹ Journal of Council, p. 154.

² Journal of House, p. 143.

³ Ibid, p. 143.

⁴ Ibid, p. 143.

⁵ Journal of House, p. 207.

⁶ Ibid, p. 146.

⁷ Ibid, p. 177.

speeches were made for and against the principles underlying the banking question. The party line was not drawn as closely here as in the Council, because of the peculiar wording of the bill, which 'declared that the bank had forfeited its charter by the suspension of specie payments and required it to resume again. Some voted against this act who were in favor of forfeiting its charter or of its suspending specie payments, because they claimed that it legalized the past suspension of specie payments. The opinion of this class of Representatives might be said to be represented by the protest¹ of Morgan, which was spread upon the minutes. Two of the reasons in this protest need only be referred to here. One of the reasons was that the bill had been legislated upon with the understanding that the bank by its suspension of specie payments had violated its charter, any law compelling it to resume at any time in the future would legalize its suspension; the other was an alternative of the above, if the bank had not forfeited its charter by its suspensions nor by any other abuse of its corporate powers, then it should be left subject to action for debt as private individuals are. The bill was carried by a vote of 21 yeas to 5 nays, and referred to the Council.

After this bill had reached its second² reading in the Council it was laid upon the table for an indefinite period.

The Council bill³ (No. 103) requiring the Miners' Bank to resume and continue specie payment was read twice in the House, the last time⁴ being February 7th, two days before adjournment.

On February 4th a Joint Resolution⁵ (No. 119, H. R.), requiring the Miners' Bank to stop its discounts and issues while it continues to suspend its specie payments, was introduced and was passed on February 8th, by a vote of 18 yeas

¹ Journal of House, p. 191.

² Journal of Council, p. 162.

³ Ibid, p. 144.

⁴ Ibid, p. 215.

⁵ Ibid, p. 212.

to 6 days, and referred to the Council. This having been passed¹ the day before adjournment, it only reached its first reading in the Council.²

Although there was a majority in both branches of the Legislature in favor of compelling the Miners' Bank to resume and continue specie payments, on and from August 1st, 1842, we find that through a lack of good management by the Democratic party, which had a majority in the Council and the House, no bill was passed and the bank was permitted to go on the even tenor of its way until the next session of the Legislative Assembly.

2. *Proposed Bank at Davenport.*

On February 5, 1842, Mr. Grant gave notice³ that on some future day he would introduce a bill to incorporate a bank in Davenport, Scott County. In accordance with this notice, two days later, he introduced No. 126, H. R. File, "A Bill to establish a Bank in the town of Davenport," which was read a first time by title.⁴ A motion to reject was carried by yeas 21, nays 2. Mr. Grant voting for its rejection.

This was the summary ending of the second attempt to incorporate a bank in the Territory of Iowa.

3. *Change in Stockholders of the Miners' Bank.*

In June, 1842, a change⁵ was made in the organization of the Miners' Bank of Dubuque. The controlling interests of the bank were bought by persons connected with the St. Louis Gas Light Company. Mr. Martin, the Cashier, resigned and his place was filled by Mr. Pearson, formerly a principal clerk in the Gas Light Company. The new directory was composed of Messrs. Whaple, Waller, Davis, Quigley and Farley, all of Dubuque, and who were of the highest standing in the

¹ Journal of House, p. 222.

² Journal of Council, p. 187.

³ Journal of House, p. 205.

⁴ Ibid, p. 210.

⁵ St. Louis Republican, June 16th, 1842.

business circles of the city. The financial standing of the bank now seemed to be better than at any previous time in its history.

In July twenty thousand dollars in specie¹ was deposited in the Galena Branch of the State Bank of Illinois, by the St. Louis Gas Light Company with which to redeem the notes of the Miners' Bank of Dubuque. The bank continued the redemption of its notes for about one week, when being disappointed in receiving ten thousand dollars in specie it again suspended. At the time of the last suspension of specie payments there were besides the notes held by the St. Louis Gas Light Company, only about eight thousand dollars in circulation, and the bank had at this time for their redemption about one thousand dollars in specie. During this period Mr. St. John of St. Louis purchased² forty thousand dollars of the stock by giving his note to the bank. As a stockholder he borrowed from the bank, on his individual notes, fifty-seven thousand dollars. St. John failed in business and took the benefit of the existing "Bankrupt Act," and by this transaction the bank sustained a clear loss of ninety-seven thousand dollars.

Later in the year, Dr. Barrett and Thomas Mather became the principal owners of the stock of the bank.

4. Failure of the Territory of Iowa to Pay the Debt Due the Miners' Bank.

As mentioned before, the Territory of Iowa had borrowed from the Miners' Bank of Dubuque five hundred dollars, and had given its note payable at the Missouri Bank in St. Louis. This note had become due on June 30th, 1842, and, upon failure to pay, it had been protested. The probability that the Territory would not be able to meet the payment of its five thousand dollar note when due and that it also would be

¹ Davis testimony before Investigating Committee, Journal of House, 1843, p. 150.

² See Mobley's testimony, Ibid, p. 151.

protested, led to a correspondence¹ between the Territorial Agent and the officers of the bank. The Territorial Agent sought to influence them to hold the note for payment or adjustment at the bank in Dubuque, instead of forwarding it to New York for payment.

In his letter of August 13, 1842, to the Cashier of the bank, the Territorial Agent, after acknowledging the receipt of the notification of the protest, wrote that it had been impossible to meet this payment as the office came into his hands without funds; that he had been embarrassed with a large number of small debts outstanding from the previous year; that the only resources that were at his command during the year were the remainders of old debts due the office from previous sales, many of these were not collectible, and that any of them would be difficult to collect. The Legislature having repealed the law authorizing the agent to borrow money, and having passed an act requiring that the proceeds of the sales of city lots should be used only in payment for work upon and material for the capitol, it would be an absolute impossibility for him to meet any part of the debt due the bank this year. He was certain that the debt for \$5,000 could not be met at maturity and the only practicable course to pursue that he could see, was to renew the notes.

On September 20th, he wrote a letter to the President and Directors of the bank which was to be handed to them by Hon. Francis Springer who was "one of the counsel" for the collection of debts due the Territory. Mr. Springer was to explain to them the financial condition of the Territorial Agent's office, and would be as an answer from him to them. Mr. Pearson, Cashier, in his reply of the 23rd of September, 1842, stated that he had "depended upon the prompt payment of that debt" as by its payment the bank would be able to redeem the small balance of their notes still in circulation. But he promised to retain the note in the bank, and acknowledge a deposit of \$50, made to the State's credit, and that "any

¹ Journal of Council, 5th Legislative Assembly, pp. 195-96.

arrangement you make for the payment, in small or large amounts, of the notes now due, and becoming due, will be satisfactory.”

The Territorial Agent at the closing of his report suggests that as the note will not become due until December 28-31, 1843, there is time for the Legislature to make some arrangement for the payment or renewal of it and save its being protested.

5. *Attempt in the Fifth General Assembly to Revoke the Charter of the Miners' Bank.*

On the 5th of December, 1842, the Fifth Legislative Assembly of the Territory of Iowa convened, and on the third day of the session, Mr. Rogers of Dubuque gave notice¹ that at some future day he would introduce a bill to repeal the charter of the Miners' Bank and provide for winding up the affairs of the same. This bill was not introduced² by him until the second of January, 1843. It was considered in the Committee of the Whole on the same day and referred back to the House without amendment. An attempt³ to refer it to the committee on Judiciary failed and it was finally referred to a Select Committee of one from each electoral district. To this committee of ten members was given the power to send for such persons and papers as may be had at Iowa City relative to the subject.

(a) Majority Report of Select Committee of House.

After two unsuccessful attempts by Mr. Rogers to secure an earlier report, one was finally made on January 23, 1843. The committee reported⁴ the bill back without amendment and recommended its passage. The committee also reported that they had examined Joseph T. Fales, Timothy Davis, and

¹ Journal of House, p. 12.

² Ibid, p. 69.

³ Ibid, p. 71.

⁴ Ibid, p. 150, et seq.

William Mobley in regard to the affairs and the methods of conducting the bank.

The most important statement of Mr. Fales was "that he believes, the stock of the bank was never paid in any other way than by the stockholders giving their notes to the institution." He also testified in regard to the suspension of specie payment by the bank, that he had presented notes to the bank for redemption and had been refused specie. That the officers of the bank threatened to shoot a constable if he should persist in his attempts to serve a writ of attachment on the property of the bank or open the doors of the bank building; that he had been paid forty cents on the dollar for the notes of the bank by one of the directors of it, and that the notes were worth from 37 to 40 cents on the dollar when he left Dubuque to come to the session of the Legislative Assembly; that he believed that nearly every one in Dubuque and the surrounding country, excepting those interested, wanted the bank's affairs closed up.

Mr. Davis, one of the directors, testified that a fifty dollar certificate of stock was handed to him to qualify him to act as director, and that he "intended to return the certificate when he ceased acting as director." He claimed that other directors were qualified in the same manner as he was. He also testified as to the transactions between the bank and the St. Louis Gas Light Company; and as to the amount of bills yet outstanding which were about eight thousand dollars.

Mr. Mobley of Springfield testified that the principal owners of the bank were Dr. Barrett and Thomas Mather; and that he had been hired by them before purchasing stock to investigate the condition of the bank. He gave an account of Mr. St. John's transactions with the bank whereby it lost the price of forty thousand dollars of the stock, and the fifty-seven thousand dollars which he had borrowed from it on his notes; he had become bankrupt and his debt to the bank was consequently a total loss.

The report discussed the suggestion that had been made

that if the charter of the bank was forfeited by the Legislature, the real estate would revert to the former owners. The case cited¹ was tried upon the validity of a judgment rather than upon the question of reversion. The argument was advanced that by its provisions the bank was permitted to purchase and hold real estate and that upon the forfeiture of the charter, this land would be assigned to the trustees for the benefit of the creditors of the bank. There was cited in support of this view the fact that the State Bank of Illinois held real estate to the value of one million dollars; and that the late U. S. Bank had real estate to the value of over six hundred thousand dollars, and if the doctrine of reversion were true, all of this would be turned over to the individual owners who had sold lands to the bank.

The committee drew the conclusion that "it will be seen that in three essential particulars, the charter of the Miners' Bank has long been violated and consequently forfeited."

First, the bank violated Sec. 20 of its charter in regard to paying for the stock subscribed; the testimony showed that "the stock subscribed was never paid in any other manner than by the stockholders giving their notes to the institution." This was clearly a violation of the charter and therefore a cause for its forfeiture, because it had proceeded illegally and contrary to its organic law. The community, at the time of its organization, naturally examined the stipulations of its charter as to the security of the notes before receiving them; and supposing that the bank would comply with its requirements, the community were induced to accept its notes. The amount actually paid in, the committee report that they have not been able to determine, "but are inclined to believe that the amount was small, compared with the amount stipulated for in the act granting the charter." They argued that if only a part of the capital stock was paid in "notes rather than in money, it would be fraudulent and justify the annulling of the charter." This being the case, they said,

¹ State Bank of Indiana vs. the State, 1 Blackford, 267.

"it is clear that the charter was wantonly violated," and that a base fraud has been perpetrated upon the public by the bank's methods of organization and that it should meet with a "swift and effective correction."

In the support of the second charge, the testimony of one witness is quoted that five of the directors instead of being bona-fide owners of stock previous to the time of election, had been given a \$50 share of stock to permit them to make a technical qualification for the position of director, instead of following the spirit of the requirements of the charter, and that this act was an abuse of corporate power and repugnant to the public interest.

"The third and greatest delinquency of the bank" in the words of the committee, was the entire suspension of specie payments, in violation of Sec. 10 of the law of incorporation. That by the violation of this section, the Legislature had the right under Sec. 23 to revoke the charter.

The committee was of the opinion that the Legislature not only had the right to revoke its charter under Sec. 23, but that any subsequent Legislature had the authority to repeal any of the acts of a preceding Legislature, whether the acts of the preceding session have a repealing clause or not. That the Legislature had a right to repeal a law when it became "odious" to the people; and that the abuse of the privileges of the bank in suspending specie payments whereby it was swindling the people out of large sums of money by its depreciated notes made this law "odious" to the people; and therefore, upon this ground, this session of the Legislature had a right to repeal the act of the previous one which constituted it.

The committee indulged in the general opinion that beside the three particular fraudulent evasions of the charter enumerated above, "all the proceedings of the bank in its corporate capacity, subsequently to the forfeiture of its charter by reason of either of the above abuses, have been fraudulent, and that the directors are subject to prosecution accordingly,"

but, whether this opinion is right or wrong, there could be no question of the forfeiture of the charter; and more especially that there could be no doubt as to the power of the Legislature to annul it.

(b) ☐ Minority Report of Select Committee of the House.

On January 24th, the next day, the minority report¹ upon the same bill (No. 23, H. R.) was submitted. This report insisted that by the unconditional repeal of the charter of the Miners' Bank all of the real estate would revert to grantor or his heirs, and the debts due to and from it were extinguished. In proof of this theory, Angel and Ames' Corporations, p. 513, Commercial Bank vs. Lockwood, administrator, Harrington's Reports, Vol. 4, p. 115, and Blackford's Indiana Reports, Vol. 1, p. 216, were cited. Therefore, if the bill passed, the entire assets of the bank, amounting to over \$60,000, would be lost to the bill-holders and creditors. The minority were opposed to the provisions of the bill vesting the appointment of trustees in the Judge of the Third Judicial District, because by the conditions of the bill the whole of the assets would be ultimately put in the hands of a single individual. They had the "fullest confidence" in the integrity of the Judge, but were opposed to concentrating such vast powers in the hands of any individual, unguarded by any checks against the abuse of that power.

For the reasons stated, the bill was objectionable in nearly all of its provisions.

It was cited from the testimony that the bank suspended specie payments in March, 1841, which was several months after the suspension of the banks in Illinois and elsewhere, the suspension continuing until June, 1842. During the time of the suspension the bank redeemed its notes in current funds "such as the bills of Illinois, Indiana and Kentucky banks"; and after its suspension it had made arrangements with the Land Office, by which its bills were to be received to "some small extent" in the payment for land entered, and to "some

¹ Journal of House, p. 164 et seq.

extent" had paid specie to the citizens in exchange for its bills of the denomination of five dollars.

The bank in July, 1842, had made arrangements by which \$20,000 had been deposited in the Galena branch of the State Bank of Illinois, but \$10,000 of this deposit had been countermanded, and on account of this the bank had been compelled to suspend again. At the time of this suspension there was only \$8,000 of its notes in circulation, not controlled by its stockholders. The Territory of Iowa then owed the bank \$5,876 and this sum, with the specie in the bank, would have been sufficient to have paid all the bank bills not controlled by the stockholders.

A statement of the condition of the bank at this time had been procured by the minority of the committee from one of the witnesses, Mr. Mobley, who had testified that it was taken from the statement of the Cashier and that he had examined the books of the bank and counted the cash and knew that it was correct.

Real Estate owned by Bank.....	\$16,387.13
Personal property.....	1,481.37
Amount due from other banks and individuals on account.....	34,649.87
From Iowa Territory.....	\$5,876.25
" Wisconsin.....	803.33
" Dubuque County.....	500.00
	<hr/>
	7,179.50
Specie on Hand.....	1,032.33
	<hr/>
Total Amount of Assets.....	\$60,730.20

LIABILITIES.

Whole amount of notes in circulation as per Cashier's Statement.....	\$113,190.00
Of this amount \$105,190 is in the hands of the stockholders, leaving in other hands to be redeemed.....	\$ 8,190.00
All other immediate liabilities.....	7,897.27
	<hr/>
	16,080.27
	<hr/>
Balance in favor of Bank....	\$ 44,649.93

The testimony of the witnesses in regard to the payment of the capital as required by the charter still leaves this question an open one, and as in former cases was simply hearsay. Two of the witnesses, Messrs. Fales and Davis, in reply to the question, "How much stock was actually paid in?" Submitted in writing the answer, "Don't know." To the question, "How was it paid in?" the same witnesses answered in writing, "Heard that some paid in money and others gave stock notes." These questions and answers in the minority report were a partial rebuttal of the statement in the body of the majority report that "the stock subscribed was never paid in any other manner than by the stockholders giving their notes to the institution"; and the testimony of the witnesses submitted in the majority report does not sustain their own statement. In fact, the evidence in regard to the original subscription of the stock was hearsay.

This report shows that St. John bought \$40,000 of stock of the bank "owned by men in New York or some of the Eastern cities" of the Cashier; and that these notes became the property of the bank; and that the bank loaned¹ to him \$57,000; that the stock had been recovered by the bank, but that the money loaned him was a total loss. The losses by the stockholders had been a heavy one. The change of the ownership of the stock in June, 1842, had not been detrimental to the bill-holders, as there had been paid out \$25,000 in the redemption of bills of the bank, and no bills had been put in circulation. It was generally acknowledged by those most opposed to the bank that "the present directors are men of unimpeachable integrity, in whose honesty and business capacity, the community have the fullest confidence."

(c) Consideration of Reports by the House.

Immediately after the reading of this report the bill was considered² in the committee of the whole, several amendments

¹ On September 2, 1843, judgment by default was rendered against Harry St. John for \$42,870.97, Docket B, 3rd Judicial District (Dubuque County), p. 233.

² Journal of House, p. 167.

made to it, and then reported back. The question upon the amendments was considered separately. The first section of the bill as offered provided for the revocation of the charter. The amendment offered provided that the act incorporating the Miners' Bank should be null and void as far as the act had granted to the bank "any privileges to loan money, discount paper or do any other banking privilege." To meet the argument in the minority's report in regard to the reversion of the land and the estoppel of the collecting or payments of debts by the Trustees to be appointed, a special provision was inserted as the concluding clause of this section. This provision was that nothing in the first section of the bill should be construed in such a manner as to prevent the Trustees, provided for by the act, from collecting all debts due to the bank and all claims against it, or from the transaction of the business necessary for the closing up of the affairs of the bank. This amendment was agreed to.

An attempt¹ was then made to have the Judge of the Second Judicial District make the appointment of the two Trustees, provided for in the bill, who were to settle up the affairs of the bank.

It was provided that all property of the bank which might be sold by the Trustees should be by "public outcry" after giving thirty days' notice of the sale.

An attempt to regulate, by an additional section, the priority of claims failed. This additional section provided that the necessary expenses of winding up the affairs of the bank should be a *pro rata* division made on all the legal liabilities of the corporation, but no payment was to be made on the stock until all the other legal liabilities were first paid.

An additional section provided that the present directors should act as Trustees for the stockholders and creditors until those provided for in this act were appointed.

An attempt to pass an amendment, providing that no debtor of the bank should take advantage "by reason of the bank

¹ Journal of House, p. 171.

having failed to comply with the provisions of the charter," was lost by a vote of 12 to 13.

The question of the engrossment of the bill and the third reading¹ of it the next day passed unanimously. Upon the question of its final passage all of the twenty-five members of the House voted in the affirmative; and the bill was referred to the Council.

(d) Action by the Council.

On January 25th the Council received² the bill³ passed by the House. On the next day it was read the first and second times and referred⁴ to the Committee on Judiciary. On February 16th the committee was ordered to report upon the bill. In the evening session an order to report⁵ was unanimously passed; and the report was made against its passage and laid⁶ upon the table until the next day. A motion to take from the table the next day⁷ was lost by a vote of five yeas to seven nays.

This being the morning of the last day of the session no farther action was taken by the Council upon the Miners' Bank.

6. *The Claims of Improper Influences.*

In an editorial of the Iowa Standard of January 19th, 1843, it was stated that a very great change of opinion had taken place in relation to the Miners' Bank of Dubuque, for when the Legislature first assembled there was hardly a man to be found among the Legislators who did not expect the institution to be put in liquidation. But since that time the bill for the repeal of its charter had been in the hands of a committee and it had ascertained that men of capital were then in

¹ Journal of House, p. 173.

² Journal of Council, p. 89.

³ No. 23, House File.

⁴ Journal of Council, p. 91.

⁵ Ibid, p. 177.

⁶ Ibid, p. 182.

⁷ Ibid, p. 183.

possession of the bank and were ready to put \$50,000 in specie into it, and were also willing to do business under any restriction or safeguard that the Legislature might see fit to impose. There had been received from the citizens of Dubuque a petition signed by more than one hundred and fifty business men, comprising persons from both political parties, asking that the charter of the bank be continued. These things had caused the matter to assume a very different form before the Legislature. It was further stated in the article that five-eighths of the people of the Territory would desire to have the bank go into operation again if it were surrounded with sufficient safeguards to prevent any renewal of suspension. The desire for this continuation of the bank resulted entirely from the want of a circulating medium, under which the people of this state were laboring at that time. It was thought by very many conservative persons that if the bank should be put into a healthy condition again that it would furnish a currency by means of which men would be able to pay their debts.

The Iowa Capital Reporter, in commenting upon the editorial, stated that in order to justify members of the Legislature "in a little better manner than it has been done, and to show that they are not altogether fools, it is necessary for us to state and inform the public that they have a much more substantial argument for so sudden and great a change."¹ Some offers and promises of personal rewards and private advantage have, it is well-known here, been made from a certain quarter to certain members of the Legislature in consideration that they will interpose to save the bank." This undoubtedly had more weight with the members of the Legislature than any expectation that the State Bank of Illinois, which had been in a state of suspension of specie payment for more than eighteen months and was still unable to redeem its own bills, would furnish money to carry on the

¹ January 21, 1843.

business in this Territory. After a very exciting debate, a select committee was appointed by the Legislature, to investigate these charges.

(a) The Majority Report of Select Committee.

The Select Committee made their report¹ on February 1st. This showed that each of the members of both houses, the editors of the Iowa Capital Reporter, and Mr. Mobley, of Springfield, Illinois, had been examined as to the information that they might possess upon the subject under consideration. This testimony showed that Dr. Barrett of Springfield, Illinois, had written four letters to different members² of the Legislature who were personal acquaintances and friends. The general tenor of all of them was that he was negotiating³ for the franchise of the bank and if it could be secured, a company would be formed and it would put in from \$50,000 to \$100,000 capital in specie. There were some incumbrances that could not be immediately removed and he did not wish the charter to be destroyed until the arrangement for removing them had been made. All that he desired was that the charter should not be revoked, and in six or eight months time he could remove the incumbrances. In all of the letters he promised to make it one of the best banks in the Union, and in one he wrote it is well known that he would not "wild-cat" it. In one of the letters the statement is made that undoubtedly the State Bank of Illinois would be forced into liquidation, and if the Dubuque bank could be saved, it and the State Bank of Missouri would be all that there would be left in operation in this western country. In two of them there are pledges that the bank shall be made useful not only to the whole territory, but the city of Burlington also would be benefited because of his interests in that city. The statement is made that the Dubuque delegation will be put right by Messrs. Corriell and Mobley if possible. It was clearly shown

¹ Journal of House, p. 209.

² Morgan, Leffler, Springer and Patterson.

³ See account of previous sale and testimony.

by the evidence that no member of the Legislature had been approached in reference to the bank in any other manner than by the means of these letters, except Mr Corriell¹ had told Dr. Andros, previous to the session of the Legislature, that it would be his "political death" if he interfered with the bank, and that it would be easier for its friends to make loans than others.

The report of the committee decided that there was nothing improper in the letters to members of the council, except that the one to Mr. Morgan contains a promise of private advantage, which showed that Dr. Barrett had improperly sought to influence Mr. Morgan's action in relation to the Miners' Bank of Dubuque. But the statement is made that there was nothing to show that Mr. Morgan or Messrs. Rogers² and Andros had been influenced in the slightest degree; but that, on the contrary, their conduct had been such as to show that they had not. It appeared that the editors had no grounds upon which to base the general charge.

In a series of resolutions, the majority report censured Dr. Barrett for writing the letters, and deemed that Mr. Mobley was to "some extent accessory to the offence of Dr. Barret by delivering the letters after he knew the contents of them." In the final resolution, the committee regarded the charge, implicating the members with having been influenced in their legislative action by promises of personal reward or private advantage, as utterly untrue and highly reprehensible in character, and therefore deemed the editors as deserving the censure of the House.

(b) Minority Report of Select Committee.

On the following day a minority report was submitted by Mr. Hepner.³ It stated that offers of private reward had been made to members as printed in the Reporter. That a knowledge of this would awaken "a vigilant and faithful public

¹ Corriell had no interest in bank except \$500 as a bill-holder. Testimony of Mr. Mobley.

² The Dubuque Delegation.

³ Journal of House, p. 225, February 2, 1843.

press," and that they should have been communicated to the public. The offers were corrupting, and as to what influence they might have on the members was not known to anyone, therefore the paper should not be censured for communicating them to the public. The other paper¹ in the city had ascribed fallacious reasons for members' actions in regard to the bank; this had caused no comment. It was evident that the statement was made as an item of faith not fact. The opinion was given that this was not a subject within the jurisdiction of the House. "The public and the press had a right to speak of the conduct of the members of the Legislature," as freely, if not more freely, than of private men. This authority had been assumed one time by Congress,² but was speedily repealed. That for over forty years no State Legislature had dared to assume such powers, and it had long been regarded as dangerous to attempt it. The Judiciary department was the place to seek recourse if any was needed. The committee had been appointed to investigate as to "the innocence of the members of the Legislature, not for the purpose of punishing or censuring the press." In their minds it was doubtful if a committee would have been appointed by the House for the latter purpose if it had been so understood. That the "mover" for the investigation, under the guise of having his innocence declared, had taken advantage of it to assail the editors of the Reporter. This report was signed by Messrs. Hepner and Fleckner.

The reports of the committees were received and no farther action in regard to the subject of the reports was taken by the House.

7. *The Miners' Bank in the Sixth Legislative Assembly.*

The Sixth Legislative Assembly of the Territory of Iowa met on December 4th, 1843. The opponents to the continuance of the charter of the Miners' Bank were determined not to be

¹ Iowa Standard, January 10, 1843.

² Sedition Laws of 1804.

outwitted by its friends as they had been at the previous session. So we find that on the first day of the session, Mr. Rogers, Representative from Dubuque county, gave notice of the introduction of a bill¹ to repeal its charter; and in accordance with this motion presented "A Bill² to repeal the Charter of the Miners' Bank of Dubuque, and to provide for the winding up the affairs of the same," which was read³ for the first time and ordered printed.

The bill⁴ was called up on December 10th, and after an attempt to refer it to the Committee on the Judiciary it was referred to the Committee of the Whole and made the order of the day for the 11th; but upon that date consideration of it was postponed until December 15th.

On that date it was considered⁵ in the Committee of the Whole and some minor amendments made to it and reported back to the House, which concurred in them. Mr. Rogers then sought to have the bill engrossed and read a third time on the next day and thus finish its consideration in the House. This action was defeated by a resolution introduced by Mr. Nowlin⁶ that "Whereas, information has been received that there are now in circulation in the counties of Dubuque, Jackson &c., memorials to the Legislature relative to the Dubuque Bank; therefore, Resolved, That Bill No. 1, H. R. File, 'A Bill to repeal the Charter of the Miners' Bank of Dubuque, and to provide for the winding up the affairs of the same,' be laid on the table⁷ until the 2nd day of January next." Under the rules of the House this resolution had precedence over Mr. Rogers' motion, was put and barely passed by a ye and nay vote of 13 to 12.

¹ Journal of House, p. 4.

² No. 1, House File.

³ Journal of House, p. 8.

⁴ Ibid, p. 19.

⁵ Ibid, p. 28.

⁶ One of Committee for examination of bank in 1839.

⁷ Journal of House, p. 29.

(a) Reception of Petitions.

On January 1st, "Mr. Grimes presented a letter of instruction to the Des Moines County delegation." This instructed them to vote for the passage of a law which would compel the Miners' Bank to resume specie payment within thirty days, and in case that they would not, to authorize the appointment of commissioners by the Judge of the District Court to settle up its affairs. The petition was signed¹ by 1172 citizens of the county. A point of order being raised, that the letter was not addressed to the House, and so could not be received, was sustained.

Mr. Johnson presented a petition to the House from 96 citizens of Des Moines County, asking that the charter of the Miners' Bank be repealed, or that the stockholders be compelled to pledge real estate for the security of the notes that had been or might be issued by the bank. This petition was received and laid upon the table.

On the next morning² the speaker stated that upon further reflection, although he was not fully satisfied that his decision of the previous day on the House receiving the letter of the Des Moines County delegation was incorrect, still he thought it right and proper to reverse that decision and gave for his reasons:

1st. Because there is some analogy between the present and the case of the receptions by Congress of instructions directed to members from particular states, by the Legislatures of the same.

2nd. And mainly because the Speaker conceives it the safer course in cases of this kind to leave the question of reception with the House.

The instructions were again presented by Mr. Grimes and upon his motion that they should be received by the House, all the members present (20) voted in the affirmative.

This day was marked by the reception of petitions in regard to the Miners' Bank of Dubuque. Mr. Brophy presented a

¹ Journal of House, p. 38.

² Ibid, pp. 39-41.

letter of instruction from 173 citizens of Clinton County, urging that the Representatives from that county vote for a law which would force the bank to close up its business or resume specie payments by the 1st of March, 1844. Mr. Rogers presented a petition from Dubuque, Delaware and Clayton counties, "praying that further time be given to the Miners' Bank to resume specie payment." This was signed by 559 persons. This, upon motion of Mr. Rogers, was referred to a select committee consisting of the delegation from Dubuque, Delaware and Clayton. Mr. Foley of Jackson County presented a letter of instruction from 213 of his constituents, instructing him to use his exertions for the passage of a law which would require the Miners' Bank to either resume specie payments in thirty days from its passage or force it to cease its business. This was referred to the select committee, to whom the petition presented by Mr. Rogers had been referred, and Mr. Foley was also added to that committee.

Later in this day's session¹ a bill to repeal the charter of the Miners' Bank, etc., came up and further action upon it was postponed until January 8th, 1844. The reasons given for this motion being the expected arrival² of more petitions from Des Moines and Jackson counties.

On the next morning Mr. Foley of Jackson County presented the petition of 96 citizens of that county asking that the Miners' Bank be compelled to resume specie payments upon April 1st, or suffer a revocation of its charter; and a petition from 27 citizens asking that "the affairs of the bank be wound up." To the various petitions presented previous to this, there had been more than twenty-four hundred signers, all of whom had petitioned that the bank should be compelled to resume specie payments or as a last resort be compelled to wind up its affairs; but this petition was the first that asked for an absolute closing of the business of the bank as the only

¹ Journal of House, p. 49.

² Iowa Standard, January 4, 1844.

course. On January 8th¹ a similar petition to the last one was received, signed by 30 residents of Clinton and Jackson counties; and again on the 10th a petition² from Jackson County with 188 signers asked that the Legislature would take no other action than to "repeal its charter and wind up its affairs." On the next day a petition³ from Des Moines County with 57 signers was received praying that the "affairs of the bank be wound up without further indulgence."

(b) The Discussion in the House.

On January 11th,⁴ after considering the bill in the Committee of the Whole without making any amendments, Hackleman from Des Moines County moved to amend the bill by inserting after the enacting clause, the following:—"That the Stockholders of the Miners' Bank of Dubuque, be and they are hereby required to redeem and pay specie for all notes issued by said bank, that may be presented at their counter within thirty days after the passage of this act, and continue at all times thereafter to pay specie when called for, and if they refuse so to do, then said charter shall be wound up according to the provisions of this act.

"Provided, That unless the stockholders of said bank shall within thirty days after the passage of this act, mortgage to the Territory of Iowa, four hundred thousand dollars worth of real estate, lying and being situated in the Territory of Iowa, which shall be valued at a fair value, to secure the payment of the notes that are, or may be hereafter issued by said bank, and that the Judge of the Third Judicial District have power, and it is hereby made his duty to appoint three disinterested Commissioners to value said land under oath, to the best of their judgment, who shall take and receive said mortgage in the name of the Territory of Iowa, and that they have the same made a matter of record, in the Recorder's Office of the County of Dubuque, in said Territory, and that said bank pay all charges for the same, and further, it shall be the duty

¹ Journal of House, p. 64.

² Ibid, p. 72.

³ Journal of House, p. 73.

⁴ Ibid, p. 75.

of said Commissioners, to examine into the affairs of said bank, and report to the said Judge every three months." This motion was lost by a vote of 4 to 21.

An attempt was made to amend the bill by the insertion after the enacting clause of what was practically a new bill and one that was in accordance with the spirit of the majority of the petitioners and letters of instructions sent to the House and to the different delegations. It consisted of three sections;¹ the first required that the bank should resume specie payments within thirty days after its passage; the second, that in case of failure to comply with the first provision, the District Attorney should sue out a writ of *quo warranto* against the bank and prosecute the same to final judgment; the third made provision that in case the bank did resume and afterwards at any time failed to pay its "legal liabilities in gold and silver coin, it shall be the imperative duty" of the District Attorney to proceed as directed in the second section.

An attempt was made to amend this amendment by the addition of a clause substantially the same as the "land mortgage clause" quoted before.² This amendment to the amendment was decided in the negative, having upon its second presentation gained only one vote—the vote being 5 yeas to 21 nays.

Further action upon the amendment went over until the next day. The report³ of the Select Committee was made upon the petitions from Dubuque County. This report stated that of the 559 signers some were found to be "not naturalized, some not of age, some living in Illinois, some in Jackson and Jones Counties," and that many of the names were unknown to the chairman and he was unable to describe where they lived. After calling attention to the wording of the petition, Mr. Nowlin states⁴ that he feels himself to be instructed by a "large and respectable portion" of the citizens of his district to support any measure that will compel the

¹ Journal of House, p. 75.

³ Journal of House, pp. 77-78.

² Ibid, p. 76.

⁴ Ibid, p. 78.

Miners' Bank to resume specie payment within a short time and compel it to do a safe business for the people. His opinion was that the only way to do this was by the mortgaging of land for security of the issues of bank notes.

The consideration¹ of the amendment was then taken up, and an amendment was offered by providing that upon failure of the bank to resume specie payments, that persons holding such liabilities could proceed against the stockholders and collect out of their private property as in the case of individual debts, this was accepted as a part of the amendment and the vote upon its passage was lost by a vote of 8 to 17.

The bill as it was now left required that the charter of the bank should be repealed and its affairs closed up and the engrossment of the bill in this form was decided in the affirmative.

In the interval between its engrossment and final passage, Mr. Rogers presented the petition² of several citizens of Iowa City, praying the Legislative Assembly to pass a law to resuscitate the Miners' Bank of Dubuque, provided, that the Stockholders caused to be paid into the office of the Secretary of the Territory the sum of \$10,000 as a bonus; the said sum to be appropriated for the encouragement of the emigration of marriageable females from New England to this Territory. This was referred to a select committee.

On January 13th³ the bill was passed by a vote of 18 to 7, a strictly party vote; and then referred to the Council.

(c) The Discussion in the Council.

In the Council,⁴ on January 15th, there were presented petitions and remonstrances from Des Moines County for and against the passage of a law to compel the Miners' Bank to resume specie payments. On the same day the House bill⁵ repealing the Charter was received and read the first and

¹ Journal of House, p. 78.

² Ibid, p. 81.

³ Ibid, p. 84.

⁴ Journal of Council, p. 73.

⁵ No. 1, House File.

second time, and it and the petitions and remonstrances were referred to a Select Committee.

The next morning the Select Committee¹ made a report amending the bill; these amendments made it practically a new bill as they changed the whole tenor of it. All after the enacting clause was struck out and the first section required that the Miners' Bank should resume specie payment within thirty days after the passage of the act. The second that if the bank did resume specie payments, it should make its notes redeemable at par in gold or silver in the cities of Burlington, St. Louis and New York; and a provision was made that the Cashier should make sworn statement of the condition of the bank every ninety days and have the same printed in the newspapers of Dubuque. The third section provided that if the bank failed to resume specie payments or at any time should fail to continue the payment at any of the places where they were made redeemable, the District Attorney of Dubuque was to swear out a writ of *quo warranto* and prosecute the same. The act was to be in force immediately upon its passage.

This bill as it had passed the House was in consonance with the principles of the Democratic party in regard to banks at this time—that was to close them up as soon as possible by the Legislature revoking the Charter; but the bill as reported back by the Select Committee was completely in accordance with the Whig ideas in regard to banks—that was to make their currency safe; and if that were not safe to proceed against them by legal action.

On January 17th, the bill came up as reported² back for consideration by the Committee of the Whole, and no amendments were made to it; but in its consideration by the Council an attempted amendment was lost by a vote of five to eight. This required that the bank before commencing business should transfer in trust to the Territory \$150,000 worth of real

¹ Journal of Council, p. 77.

² Journal of Council, p. 81.

estate for the protection of the note holders "in case of suspension of specie payment or a violation of any kind," this real estate was to be held under the direction of the Governor.

An amendment was then made, "That the President, Directors and Stockholders of said bank shall be liable in their individual estates and in case of a failure to pay specie at all times, they shall be liable to be sued and recovered from at all times and places wherever they may be found." This was an unlimited individual liability clause, and the most drastic measure that had ever been proposed, or had been passed by any Legislature for the protection of the note holders.

A further section¹ was added by an amendment which provided that if the bank should import into the Territory any note of a less denomination than five dollars, "or notes of any size not equally as good as specie in Du Buque," the charter was to be forfeited and the bank was to be closed up as provided. This amendment was changed by striking out "or notes of any size not equally as good as specie in Dubuque, etc.," which simply left it as a prohibition upon the importation and vending of bills of a less denomination than five dollars, and permitted them to bring in and pass depreciated bank notes as was the general custom of banks.

An attempt was made to further amend the bill by requiring that the bank within a year should pay a bonus² of \$10,000 to the Territory. This was lost by a vote of 5 yeas to 8 nays. The engrossment of the bill was ordered.

On the farther consideration³ of the bill, the unlimited liability clause was restricted to the amount of the respective shares owned by the stockholders.

The report as to the condition of the bank was to be made by the Cashier, and it was attempted to amend it so as to show the names of the stockholders, and the number of their respective shares, "and such a statement shall be *prima facie*

¹ Journal of Council, p. 82.

² Ibid, p. 83.

³ Ibid, p. 91.

evidence of their liability in all cases;" but the last clause was struck out and all that was changed in making the report was that the names and respective shares of the stockholders should be inserted in the report.

On January 20th¹ the bill passed the Council without further amendment by a vote of 10 yeas to 3 nays.

The bill as it had passed the House provided for the revocation of the charter and the winding up the affairs of the bank. As it passed the Council it provided for the resumption of specie payment in 30 days; the making the bills equivalent to specie not only at Dubuque but also at Burlington, St. Louis and New York; in case of failure to comply with the above, "the winding up the affairs of the bank;" that the stockholders should be liable to the amount of their stock; that the bank should not import and vend the bills of a denomination less than five dollars; that a report of the condition should be printed at least once in ninety days, which should show the names and respective shares of the stockholders; and that it was to be in force after the passage of the act.

The bill in this form would have afforded a reasonably safe circulating medium in prosperous times, and when at the same time its stockholders were men of property. By the conditions of the charter the bank was allowed upon a capitalization of \$100,000 to issue notes to the amount of \$200,000. The only guarantee back of these notes being the capital of the bank, hence by the restrictions of the charter there was, considering the capital not to be in any way impaired, a guarantee of only 50 per cent on the maximum of circulation. By the restrictions added by this act, conceding that each of the stockholders owned property (not exemption proof) to the amount of his respective stock, an additional safeguard of 50 per cent was added to the maximum circulation. That is, under the most favorable circumstances, the note holders were fully secured. Under the most unfavorable circumstances when there was a total impairment of capital and an

¹ Journal of Council, p. 95.

entire lack of legal liability upon the part of the stockholders the security of the notes became nothing. But it is probable that under the management of conservative business men of responsibility that the notes in ordinarily prosperous times would have always been current at par. The demand for them to use instead of exchange on St. Louis and New York, the principal trading centers of the Territory, under certain circumstances, would have caused them to have been above par. The notes would have been far superior in regard to safety to most of the circulating medium found throughout the Territory at this time, as practically all in circulation were at a discount. In summation it may be said that if this bill could have been passed, and if it then should have been accepted by the bank and put in operation by such a company as secured control of it in the following April, it would have been a blessing to the business interests of all classes of citizens in the Territory of Iowa.

(d) The House Refuses to Concur.

The House, on January 23, 1844, refused to concur¹ in the amendments made to the bill by the Council by a vote of 11 to 14; and on the next day the Council passed a motion to postpone action upon the bill until the next "Fourth day of July." This was the death blow to any farther legislative action upon the affairs of the bank at this session.

8. *Resumption of Specie Payments by Miners' Bank.*

The Miners' Bank of Dubuque suspended² specie payments on March 29, 1841, and resumed the payments of its liabilities in gold and silver on the 19th of April, 1844. This resumption³ was made soon after the election of M. Mobley as Cashier, formerly connected with the State Bank of Illinois at Springfield. From this time until the day that the charter of the bank was repealed, the bank met all of its obligations in specie, if so desired. During the period of its suspension its

¹ Journal of House, p. 122.

² See Iowa Standard, April 16, 1841.

³ See Iowa Standard, April 26, 1844.

liabilities depreciated very much. It was claimed that they had been bought in at a very great discount by the non-resident stockholders of the bank, and that in this manner they had realized a large sum.

Shortly before this we find that a number of citizens of Dubuque and adjoining counties had petitioned Governor Chambers to direct the district attorney to file *quo warranto* proceedings against the bank; but the governor refused to grant the request. The radical anti-bank paper of the Territory, the Iowa Capital Reporter,¹ could see no reason why this reasonable request was refused, for the bank would have a chance to defend itself in a court of law, and if, as its friends claimed, there had been no violation of the charter, no forfeiture could be declared, and the bank would come out of the ordeal with a better credit than it had ever had since its organization. If the governor had permitted this prosecution to have been commenced, the bank would have had the advantage of a strong federal bank Whig to prosecute the case against it, which many deemed would have been a decided advantage for the bank over its opponents. It also stated that those persons who had attempted to bring the bank to justice had been defeated three times and that they were about to make a petition to the district court to bring it to trial. This case, after various delays, came up for trial in the May term of court in 1845. The case was ready for the jury when it was dismissed. The friends of the bank claimed that it was because the prosecution was unable to prove fraud or mismanagement in its corporate affairs. The prosecution claimed that the reason why the case was dismissed was because the books of the bank were so mutilated that it was an impossibility to tell what the character of the earlier organization of the bank had been.

¹ March 19, 1844.

CHAPTER VI.

THE QUESTION OF BANKING BEFORE THE CONSTITUTIONAL CONVENTION OF 1844.

1. *The Majority and Minority Reports on Banks.*

The first constitutional convention met at Iowa City, on October 7, 1844, and on the morning of the 11th the Committee on Incorporations made a majority and minority report¹ on banks. The majority report provided for a bank with branches, but not more than one branch could be organized for every six counties. The bill to establish such a bank and its branches was to be passed by the majority of members elected to both houses of the Legislative Assembly, to be signed by the governor, and then to be approved by a majority of the "qualified electors" of the state before it became a law. One-half of the capital stock was to be "actually paid in gold or silver," and this amount was to be in no case less than one hundred thousand dollars. The bank and the branches were not to issue any notes of a less denomination than ten dollars. The remedy for the collection of debts was to be reciprocal against the bank and its branches. The legislature reserved to itself the power "to put an end to the corporate powers and privileges" if the bank or its branches refused to pay on demand any "bill, note, or obligation issued by the corporation, according to the promises therein expressed." The Legislature also reserved the power to alter, repeal, or amend the charter, at any time that they might deem that the public good required it. The stockholders were to be respectively liable for the debts of the bank and its branches.

¹ Journal of Convention, p. 23.

On the 19th the reports of the committee came up for consideration, and a motion¹ was made to strike out the majority report and insert the minority report, which was: "No bank or banking corporation of discount, or circulation, shall ever be established in this state." The debate upon this motion commenced early in the morning session and continued through that and the afternoon session. In the warmth of debate, the question of party politics was introduced, and an attempt was made to draw the lines and force the delegates to vote according to the principles laid down by the democratic or whig party. The convention was democratic in politics, but many of the delegates elected by the democrats had been, or at least felt that they had been, pledged to vote for a well regulated and safe-guarded system of banks of issue. The discussion of these questions of actual and implied pledges called forth from one of the delegates the remark,² "that if the delegates were pledged, he supposed that they would have to vote against their principles, and the result would be that this democratic convention would pass a whig constitution." But the final result of this day's attempt to draw party lines was unsuccessful; the strongest argument against the dragging in of partisan politics was made by Lowe³ of Muscatine county, and Lucas of Johnson.

The strongest argument made against the majority report was that many abuses could creep in under the regulations as they had been made in it. The difficulty of ascertaining whether the required amount of specie was paid in or not, was pointed out, and it was shown that these requirements had been evaded in Massachusetts by the directors borrowing the specie until after inspection was made by the State Commissioners and then passed on to other banks for their use.

The individual liability clause was attacked on the ground that if a "swindling concern" was to be organized that the stockholders and officers would be found exemption proof as

¹ Journal of Convention, pp. 89-90.

² Iowa Standard, October 24, 1844.

³ Ibid.

they had been when connected with like concerns in the past. The history of the abuses of different banking systems was fully discussed; but the conclusion was reached that judicious amendments of the majority report should be attempted before it was rejected. The question of the substitution of the minority report was defeated and farther consideration of the possibility to form a banking system for Iowa was assured.

When this report came up for consideration again, an attempt was made to strike out all the bill after the first provision, requiring the law to be submitted to a vote of the directors, and leave the regulation of the details of the banking system to Legislative authority rather than to incorporate them into the Constitution. The central ideas of those in favor of striking out the provisions seemed to be a desire to give freedom to legislation, and that the Legislature, was the proper body to devise special restrictions; another was that no plan of restrictions that could be inserted in a Constitution would be sufficient to procure complete safety to note holders.

One argument introduced was that if the unlimited individual liability clause was retained the effect of it would be that only men of great means would invest money in legitimate banking business; by reason of the large number of shares owned by them, they would be able to control the management of the business and in this way protect themselves against loss. This would have a tendency to prevent men of limited means, such as laborers, artisans, etc., from investing their surplus money in the banks. To place the banking system of an entire state in the hands of a few persons would tend to make the whole system insecure; for where the most stable banking systems were formed, in the Eastern states, the capital of the banks was owned by small stockholders. Objections were made to the repeal of the amendment or repeal of the charter by the Legislature, but in support of this provision the laws of Massachusetts were cited to show that such action was not based on a new principle.

The debate upon this brought out the position of the Whigs

to be that of keeping of all restrictions out of the Constitution, leaving to the future Legislatures, before which the chartering of a bank might come, the deciding of the character of the details in the light of all the knowledge the Convention now had and that might be gained in the interval. The Democrats occupied two positions. Those of that party who had been in favor of the minority report were in favor of not only the restrictions in the majority, but others and stronger ones. Those in favor of the restrictions of the majority report were in general men who either favored a well-regulated banking system from principle, or who considered themselves pledged to assist in devising a well-regulated system, and they were in favor of having some of these restrictions in the Constitution and leaving some of them to be provided by legislative action. The result of this division of opinion among the Democrats and a portion of them combining with the Whigs led to a division of the question and a consideration of each restriction separately.

The motion to strike out the second section,¹ providing that the bank and branches should not commence operations until half of the capital stock subscribed for shall be actually paid for in gold and silver, when it came to a vote produced a curious result. No hard money Democrat could vote against such a proposition; and only five votes of Whigs who held extreme views upon leaving restrictions to the legislative action voted to strike out the provision.

The amendment to the third section, changing the denomination of the smallest bill to be issued from ten to fifty dollars, caused eighteen persons, mostly radical anti-bank Democrats, to cast their vote in favor of it. An attempt to reduce the size of the smallest bill from ten to five dollars was lost² by a vote of twenty-four to forty-five. The great majority voting in the affirmative were Whigs. On the next morning³ the attempt to strike out entirely the provision, providing that the

¹ Journal of Convention, p. 93.

² Journal of Convention, p. 94.

³ October 22, 1844.

bank "shall not have the power to issue any bank note of a less denomination than ten dollars," only received fifteen votes in the affirmative, all Whigs, while fifty-two were cast against it.

The section in regard to the remedy for the collection of debts being reciprocal was not struck out.

An attempt was made to amend¹ the section "The stockholders shall be liable respectively, for the debts of said bank and branches," by the addition of two clauses. They were:

In any sum not less than double the amount of the capital stock described in their charter, in good real estate, to be valued by persons appointed by the Legislature of the State, approved and signed by the Governor and Secretary of State, and they shall never be allowed to take any security, either directly or indirectly, for any money loaned by them in their corporate capacity.

That no bank chartered² under the regulations of this Constitution shall ever lend any money or any bank note or bank notes to any member of the Legislature, or any other officer in any civil department of the State.

This amendment was defeated by a vote of 14 to 52; and from that one requirement, that of forbidding the taking of security for debts, it seems as if the vote against it should have been greater.

But the fifth section³ was amended by inserting "jointly and severally" for "respectively" and by adding to at the end of the section "whether they hold the stock in their own names or by trustees, to the full extent of the debts of such bank." The motion to strike out the amended section was lost by a vote of 17 to 52.

The sixth section⁴ was amended by striking out "according to the promise therein expressed" by a vote of 53 to 16. This section, as amended, would make it impossible for a bank organized under the law to issue any post note, or any other kind of an obligation than a demand obligation.

¹ Journal of Convention, p. 96.

³ Journal of Convention, p. 97.

² Ibid, p. 96.

⁴ Ibid, p. 98.

An additional section¹ was offered to be inserted after the sixth, which provided that "No bank shall be allowed to issue a greater amount of bank notes than double the amount of capital stock actually paid into such bank in gold and silver," but it was rejected.

The seventh section,² which secured to the legislative assembly the power to amend or repeal the charter, was attempted to be amended by a provision requiring the act of repeal to be passed by both houses, approved by the governor, and submitted to the people at the next general election, and if a majority of the qualified electors approved it, the act of repeal was to become a law. The amendment was not agreed to; and the section was not struck out.

An additional section³ was added, which was that "Any violation of, or non-compliance with the provisions and restrictions contained in this section, by the stockholders, commissioners or officers, or persons connected with the creation of any such bank or its management, in any of its accounts, exhibits, certificates of stock paid, or by embezzling its funds or property, shall be punished by fine or imprisonment in the penitentiary, and shall subject the offender to the same disqualification as conviction for infamous crimes." The vote upon this additional section was 37 yeas to 33 nays.

An amendment requiring the pledging in real estate or United States stock to three times the capital, as a security for the redemption of the liabilities of the bank was voted down by a decisive vote.

As decisively, an additional clause⁴ was passed forbidding the State of Iowa from becoming either directly or indirectly a stockholder in any bank or corporation.

By a vote⁵ of 27 to 29, there was rejected an amendment which provided that only one bank charter should be passed by the same Legislature.

The report⁶ of the Committee on Incorporations as now

¹ Journal of Convention, p. 99.

² Ibid, p. 99.

³ Ibid, p. 100.

⁴ Journal of Convention, p. 103.

⁵ Ibid, p. 104.

⁶ Ibid, p. 107.

amended was finally referred¹ to a Select Committee,² after unsuccessful attempts to refer it to the Committee on Judiciary and to the Committee on Incorporations.

2. Report of the Select Committee on Banks.

On October 25th the Select Committee on Banks submitted its report³ to the convention. They recommended that the portion of the amended report of the Committee on Incorporations that referred to one bank (Sec. 1) be indefinitely postponed, and added section 4.

The report as amended and re-arranged by the Select Committee now consisted of the following sections:

Sec. 2. The assent of two-thirds of the members elected to each house of the Legislature, shall be requisite to the passage of every law, for granting, continuing, altering, amending, or renewing any act of incorporation.

Sec. 3. No act of incorporation shall continue in force for a longer period than twenty years, without the re-enactment of the Legislature, unless it be an incorporation for public improvement.

Sec. 4. The General Assembly shall create no bank or banking institution, or corporation with banking privileges in this State, unless the charter with all its provisions shall be submitted to a vote of the people at a general election for State officers, and receive a majority of all the votes of the qualified electors of the State.

Sec. 5. The personal and real property of the individual members of the corporation hereafter created, shall at all times be liable for the debts due by any such corporation.

Sec. 6. The Legislative Assembly shall have power to repeal all acts of incorporations by them granted.

These sections followed very closely the different articles of other State Constitutions and the principles of the banking laws of other States. The second section followed very closely the requirements⁴ of the Constitution of New Jersey. The period of incorporation was, of course, common in nearly

¹ Journal of Convention, p. 107.

² Hall, Galbraith, Bailey, Langworthy, Evans, Chapman, Randolph.

³ Journal of Convention, p. 121.

⁴ Required 3-5 for granting, altering, continuing or renewing.

all charters granted by the different States. The fifth section was found in the laws of Massachusetts, Rhode Island and Connecticut. It is almost an exact copy of the law of Massachusetts. In Pennsylvania the power was reserved to the Legislature to repeal charters as provided in the sixth section of this report. The provisions of the fourth section in regard to submitting the question to the people is found in many of the constitutions, and also in many of the laws in regard to the establishment of banks.

This report was taken up for consideration by the Convention on the 28th of October. An attempt was made to change the provision of the fourth section requiring that the vote giving assent to the incorporation of a bank should be a majority of all qualified electors in the State to a majority of those casting a vote upon the question; but this was lost by a vote of 21 to 44. This was followed by a series of amendments of all kinds and conditions. Seemingly every delegate with a "pet provision" sought to have it inserted. An especial attack was made by the means of amendments, to have the restrictions already adopted applied to banking corporations alone, leaving other corporations exempt from them.

In the debate upon the different amendments exempting corporations from the restrictions applied to banks, a special appeal was made by the Whig members to the delegates from the southern portion of the State as to the need of corporate bodies for carrying on the internal improvements of the State, such as slack-water navigation of Des Moines river. But all attempts to pass amendments to exempt other corporations than banking institutions from these restrictions were futile.

The radical anti-bank delegates were defeated in an attempt to amend so that "no bank of circulation shall be established in this State" by a vote of 16 to 52. An attempt to postpone the establishment of any bank until 1860 was also defeated.

The requirement of a "two-thirds" vote to charter a bank was changed to a "majority;" and in the same section submitting the charter to the vote of the electors the phrase "and

receive a majority of all the votes of the qualified electors of the State," was changed by the addition of "cast for and against."

A substitute section¹ was inserted in place of the sixth which declared that "The property of the people of this State shall never be used by any incorporated company without the consent of the owner." Another section² added was that the state should never, directly or indirectly, become a stockholder in any bank or other corporation.

A substitute for the whole report was offered which only differed from it in some minor particulars; this was rejected by a very large majority.

The report was ordered engrossed.

3. *Report of Committee on Incorporations.*

The report³ of the Committee on Incorporations was called up again on the 31st and read a third time. An attempt to refer the report to a Select Committee with instructions to make the restrictions applicable to banking institutions alone was lost by a vote of 21 to 41. A motion⁴ to postpone indefinitely was lost; and the article on Incorporations was passed by a vote of 45 yeas to 22 nays.

The final form of Article 9, Incorporations,⁵ as left by the Committee on Revision was as follows:—

1. No act of incorporation shall continue in force for a longer period than twenty years, without the re-enactment of the Legislature, unless it be an incorporation for public improvement.

2. The personal and real property of the individual members of all corporations hereafter created, shall, at all times, be liable for the debts due by any such corporation.

3. The Legislature shall create no bank or banking institution, or corporation with banking privileges in this State,

¹ Journal of Convention, p. 52.

² Ibid, p. 183.

³ Journal of Convention, p. 183.

⁴ Ibid, p. 184.

⁵ Journal of Convention, p. 199.

unless the charter with its provisions shall be submitted to a vote of the people at a general election for State officers, and receive a majority of the votes of the qualified electors of this State, cast for and against it.

4. The Legislative Assembly shall have power to repeal all acts of incorporation by them granted.

5. The property of the inhabitants of this State shall never be used by any incorporated company, without the consent of the owner.

6. Corporations of a public nature, such as counties, towns, villages, and the like, shall not be subject to the foregoing provisions.

7. The State shall not, directly or indirectly, become a stockholder in any bank or other corporation.

4. *The Constitution of 1844, as Viewed by the Press and People.*

The Constitution of 1844 as a whole gave general satisfaction to the people and the press. The amendment by Congress, changing the boundaries and very much diminishing the area of the proposed state, caused its rejection by the people.

The only paper which from the very first opposed the proposed Constitution was the Dubuque Transcript, which opposed it upon a number of grounds, one of them being that the provisions in regard to banks, and especially private corporations, were not liberal enough.

It is quite certain that the leaders of the Whigs, for political reasons alone, were opposed to the Territory of Iowa becoming a State at this time; but only general opposition was made to it by them.

The Democratic press of the Territory were in favor of it, at least up to the time of the change of the boundaries by Congress. There were many of the provisions that they were not in complete accord with, but they accepted the Constitution as a whole and supported it. The whole of the Democratic press was especially pleased with the article on Incorporations.

One¹ of them in its editorial columns contained the following:

¹ Capital Reporter, November 9, 1844.

“The Constitution contains many sound provisions which will, we doubt not, exclude most of the prominent curses which have overrun the new States. Amongst these, the limitations on corporations stands first and foremost. These soulless monsters have tyrannized enough and we rejoice that Iowa, in the outset has bound the hydra hand and foot, for all purposes of mischief, and left its friends, if they are disposed to test its virtues, properly restrained by law, an ample field for experiment.”

The Cincinnati Enquirer,¹ one of the ablest Democratic journals of the West at that time, published the following in regard to corporations: “They have also decided to give the power in the constitution for a banking system, but with all the restrictions which have at all times been contended for by the Democrats, and are so essential in making them perfectly safe, or as near safe as can be, viz: making the stockholders personally liable, the charter to be submitted to the people to be voted for or against, the Legislature the right to alter, repeal or amend * * * *.”

The Ohio Statesman² published the whole Constitution in one of its issues, and in the editorial column the following is found: “Its provisions in relation to corporations and banks, and common schools, are admirable and show that intelligence and jealousy of incorporated wealth go hand in hand. We are rejoiced to find that the public mind is waking up to these subjects, and that they consider them of sufficient magnitude to engraft them upon the Constitution.” After quoting the provisions in regard to submission to the people, the individual liability clause, and that the State shall not become a stockholder in any bank, etc., the editorial continues: “Let this provision be remembered by our own speculators who would make our own State a scape-goat for their schemes, and the people dupes for their plunder. * * * The whole is filled with provisions which show the progressive character of insti-

¹ November 20, 1844.

² November 22, 1844.

tutions and the increasing jealousy of the public mind on the subject of the anti-republican dogmas of Federalism. Thousands will emigrate to Iowa from their admiration of its Constitution, and the love of unadulterated liberty."

The Cincinnati Globe¹ published the Constitution in its columns and also the Indiana State Sentinel,² the latter claiming that it was the best State Constitution "in the confederacy."

In all points of the Territory there was no really serious opposition to the Constitution, and it is quite certain that if there had been no change of boundaries by Congress the Constitution would have been adopted by the people at the time it was first submitted to them.

In the special session of the Legislature of 1845 during the debates upon the question of the resubmission of the Constitution to the vote of the people, there was no objection offered to the clause on Corporations in the many speeches that were delivered.

The inevitable conclusion to draw, from a close study of this period, is that the articles on corporations were not an obstacle to the adoption of the Constitution, and that the majority of the people and practically all of the press were not seriously opposed to it.

¹ November 28, 1844.

² November 24, 1844.

CHAPTER VII.

CULMINATION OF THE OPPOSITION TO BANKING.

1. *Petition for a Stock Bank at Iowa City.*

In the special session of 1845, Mr. Downey, the representative of Johnson County, presented the petition of James Robertson and 55 others, praying the Legislature to charter a Territorial Stock Bank, and at the same time, previous notice having been given, introduced¹ No. 31, H. R. File, "A Bill to charter the Bank of Iowa in Iowa City." The bill has not been preserved in the archives of the State, but fortunately the petition has been. This petition clearly states the condition of the times and the feelings of the people, hence it is believed to be worthy of introduction here.

To the Honorable the Council and House of Representatives of the Legislative Assembly, of the Territory of Iowa:

The petition of the undersigned, citizens of said Territory, represent, That in their opinion the inhabitants of the Territory would be greatly benefited, and the interests of agriculture, commerce and manufacture much advanced, by the establishment of a STOCK BANK.

Your petitioners are aware that the systems of banking, which were unfortunately adopted in the South and West some years since, has been a tendency to prejudice the public mind against every species of bankpapers; but whatever evils may attend a paper currency, and it must be admitted that there are many, its policy cannot now be regarded as an open question. The State claims and exercises the right of creating Bank Incorporations, and they form and will continue to form a part of our commercial policy; and each new state will be bound in Defence to furnish her own paper currency. The specious plea of the opponents of all banks "that what is wrong in itself can not be made right by considerations of expediency," if

¹ Journal of House, p. 81.

originally good, is not now applicable. A mixed currency is entailed upon us whether it be right or wrong, and it is the part of wisdom to legislate accordingly.

There are in Iowa almost twenty thousand families; each family, on an average, sustains a loss annually of at least two dollars, making an aggregate of \$40,000 !! The people ought not, and it is to be believed, will not submit, to be thus taxed for the use of a currency they had no voice in creating, and over which they can have no control.

Your petitioners believe that a bank charter can be so framed as to be acceptable to a large majority and eminently useful to all. And herewith submit a plan, in the form of a bill, which they request may be referred to the consideration of a Joint Select Committee of both houses. It has been framed in the spirit of compromise and concession and your memorialists pray that it may be reported and passed without material alteration or amendment. And your petitioners as ever pray.

Among the signers were: James Robinson, Wm. Penn Clark, Alex Grant and Morgan Reno. After the second reading it was referred to a Select Committee by the request¹ of Mr. Downey and was never reported back to the House.

The organ² of the Democracy in its issue about the time of the introduction of the bill names it as "a bona fide incipient little monster, projected by our enterprising Whig population, but destined never to receive the animating influence of the Legislature, which is necessary to bring it into vital existence, and give it a local habitation as well as a name."

Commenting further, it enquired if it would not be a "beautiful piece of policy" for a Democratic Legislature to be coaxed into "giving birth to such a vampire upon the body politic," and thus create a "machine" for the swindling of "honest industry" out of its honest earnings for no other purpose, but to support in Iowa a "pampered bank aristocracy." It also saw in this a political scheme, for if a charter was granted, then it would become an "effective weapon" against the

¹ Journal of House, 7th Legislative Assembly of Iowa Territory, p. 83.

² Capital Reporter, May 20, 1845.

Democrats in future political contests in the State. For all the time the Federalists had been crying out for a bank, they had been endeavoring always to "attach the odium of the bank policy" to the Democracy, and if they could be successful in this attempt it would be an available argument for further political contests. In conclusion the writer stated that the consideration of the possibility of the Legislature, as politically constituted, ever granting such a charter, was simply preposterous. The editorial was closed by a sentence which shows with what party feeling the bank question was considered by the radical Democracy of the time: "We bespeak for this hybrid little monster a warm reception, a summary disposal, and a speedy quietus."

2. *Repeal of the Charter of the Miners' Bank.*

(a) In the House.

The Seventh Legislative Assembly met on May 1st, 1845; and on the 8th of May Mr. Wilson, previous leave having been given, introduced¹ in the House, No. 2, H. R. File, "A bill to repeal the charter of the Miners' Bank of Dubuque, and to provide for winding up the affairs of the same." This bill was read the first time; and on the succeeding day was read a second time,² and referred to the Committee of the Whole for its consideration on May 12th. It was considered in the Committee of the Whole on that day³ and reported back without amendment. The rules were then suspended, and it was read a third time. The vote on its final passage being unanimously in the affirmative. It was then referred to the Council.

(b) In the Council.

It was read for the first time⁴ in the Council on May 13th, and after an unsuccessful attempt by Mr. Hempstead to have

¹ Journal of House, p. 13.

² Ibid, p. 24.

³ Ibid, p. 48.

⁴ Journal of Council, p. 33.

it referred to the Committee of the Whole, it was referred to the Committee on Incorporations.

On the next day the Committee on Incorporations submitted its report through its Chairman, Mr. Hempstead.¹

The report² recites that the first section of the act provides for the repeal of the bill incorporating the Miners' Bank of Dubuque; "and as it had been urged on a former occasion, that the Legislative Assembly of the Territory of Iowa, 'upon its own motion and upon facts which itself fixes upon a strictly legislative bearing,' has no legal authority to repeal the charter of this or any private corporation." The committee then examined and ascertained the powers with which the Legislature was invested. They found power to legislate upon this subject in the 6th section of the Organic Law of the Territory of Iowa which provides "that the Legislative power of said Territory shall extend to all rightful subjects of legislation." Under this provision of the Organic Law they contended that it would be a rightful subject of legislation; but that in addition to this, that it would be "an act of justice to the people of Iowa," many of whom had suffered great loss and injury on account of the mismanagement by the officers of the corporation. As an additional evidence that this is a rightful subject of legislation, it is shown by the 22nd section of the Act of Incorporation that the Legislature in granting the charter has reserved to itself the right "*at any time to annul, vacate and make void the charter if said corporation should fail to go into operation, or should abuse or misuse their privileges.*"

In order to determine whether the corporation had abused or misused its powers and privileges, "and for the purpose of establishing the fact of gross mismanagement and a wanton abuse of the privileges granted," they incorporated in the report the testimony of John T. Fales, Timothy Davis, a director, M. Mobley, Cashier of the bank since June, 1844. This testimony was given before a committee of the House of

¹ Journal of Council, p. 40.

² Ibid, p. 217, et seq.

Representatives in the session of 1843. The testimony as submitted with the report is but an abstract of that given in the majority report of committee of the House, and as the essentials of the testimony have been stated above it is not necessary to insert the abstract here.

The testimony is summed up as showing:

1st. That the corporators have *misused* their charter, because they had perpetrated a fraud upon the people by not paying in the capital stock in accordance with the law of Congress confirming the charter, which provided that no bills or notes should be issued until one half of the capital stock shall have been actually paid in. That until the capital stock was actually paid in by the stockholders in the legal currency of the United States it did not have a legal existence as a corporation. That this was a condition precedent to legal existence; but instead of paying in legal coin of the United States, they gave their own notes and commenced the business of banking. They claimed at that time, and now claim, the right to exercise the corporate privileges conferred upon them in direct defiance of the law granting the corporate existence.

2nd. Persons have been elected directors of the bank who were not bona fide owners of the stock, when the law of Congress, confirming the charter, declares that "the directors shall all be stockholders in the institution." That the law did not contemplate *nominal* stockholders—persons who did not really have an interest or a responsibility in the affairs, who were merely directors for the owners of the bank; but the spirit of the law was that they should be persons who had an interest in the business affairs of the bank through a real ownership of its stock.

3rd. That the bank had suspended specie payment from March, 1841, to July 1st, 1842, and after paying specie for a week "again suspended for a great length of time." This was contrary to the provisions that the bills "obligatory, and of credit, notes and post notes, when *demand*ed at *their* banking house should be paid in *the legal coin of the United States*."

The refusal to pay specie for its bills was clearly a violation of this provision. As evidence that the suspension of specie payments by banks having similar charters had been considered by the Legislatures of many different States, it was only

necessary to recall the large number of acts legalizing suspension "that had been passed by them in the last few years." And then the committee added—"acts which will stand forever recorded upon their statute books to condemn and disgrace those who passed them."

The Miners' Bank of Dubuque does not deny but what it has so abused and misused its charter by the suspension of specie payments; still its officers had urged that the Legislative Assembly of Iowa does not have the power "to annul, vacate and make void the charter until the acts of forfeiture have been judicially investigated and declared by a court of competent jurisdiction." The rule here contended for by the bank does not hold in that the right is specifically reserved to the Legislature. The committee quote in substantiation of their ground Chancellor Kent: "If a charter be *granted* and *accepted* with that reservation, there seems to be no ground to question the validity and efficacy of the reservation." To hold that forfeiture could not be worked until judicial sanction was given would render inoperative the provision of the charter authorizing the Legislature, under certain conditions, to revoke it. Was it the intention of the Legislature to simply reserve the right for its successors to confirm the decrees of the courts revoking the charter, or to reserve the power to revoke it themselves? The spirit of the charter is to reserve the right to the Legislature to repeal it "whenever they ascertain the conditions of the same to be violated."

The committee deem that under the Organic Law the repeal of the charter is a rightful subject of legislation; that the corporation has abused the provisions of the charter by not paying in the capital stock as provided by law, and by the election of directors with no real interest in the bank, and by the refusal to pay specie, when demanded, for its notes.

On these grounds the committee feel that the charter should be repealed, "that the people of this Territory may not be hereafter injured and defrauded by an institution which has heretofore been so regardless of the law and the interests of our citizens."

The report of the committee was concurred in; and the bill was then read the second and third time and passed¹ by a vote of 12 yeas to 1 nay.

¹ Journal of Council, 7th Legislative Assembly of the Territory of Iowa, p. 40.

On motion two hundred and forty copies of the report of the Committee on Incorporations were ordered printed for distribution.

As shown by the certificate¹ of the Secretary of the Territory, dated May 21, 1845, the act repealing the charter of the Miners' Bank was presented to the Governor on the 15th of May, and after being retained by him for three days, "was returned to the committee from which it was received, without his signature." Under these conditions, by the provisions of the Organic Law of the Territory, the act became a law.

(c) Provisions of Bill.

The Judge of the Third Judicial District was authorized to appoint two trustees. These trustees were to have full power to settle up the business of the bank, "to sell and convey the personal and real estate," and also "to collect and pay the debts." They were to have authority to sue for and recover any debt or property of the bank in the name of "The Trustees of said Bank;" after paying the debts and necessary expenses they were to divide the money and remaining property among the stockholders.

Provision was made that the trustees should receive in payment for debts due the bank, the bills of the same at their face value. All real estate was to be sold on a credit of four, eight and twelve months with equal payments. The purchasers were to give a mortgage on the property and also a bond with security, which was to be approved by the trustees. If there were any failures to comply with these requirements within two days after the sale, the property, after giving twenty days notice, was again to be sold; if any loss was sustained as a result of this second sale, the first purchaser should pay the deficiency and the costs.

Before entering upon the discharge of their duties, the trustees were to give a bond in such a sum and with such

¹ Chapter 31, Laws of the 7th Legislative Assembly of the Territory of Iowa.

security as should be approved by the Judge of the Third Judicial District; and were to be held "jointly and severally responsible to the creditors and the stockholders of said bank to the extent of the property and the effects of the said bank as shall come into their hands."

Any suits pending in the courts of the Territory, of which the bank was a party, should not be discontinued or "in any way effected" by the repeal of the charter, but were to be prosecuted to a final termination by the trustees.

The trustees, on receiving their appointment, were to take possession of the property and make a "complete schedule" of it and file a copy in the office of the clerk of the District Court of "Du Buque" County. The affairs of the bank were to be closed up within a reasonable time, not to exceed two years, unless by special consent of the Judge upon the showing of a good cause. They were to make a final report to the Judge, and to make such reports from time to time of the condition of their trust as he might require. The amount of their compensation was to be fixed by the Judge. The act was to take effect in twenty days after its passage.

3. *Provision for Payment of Debt Due the Miners' Bank by the Territory of Iowa.*

On May 21, 1845, Samuel Murdock of Clayton County introduced in the Council a resolution¹ requiring the Committee on Territorial Affairs to report at an early date how much the Territory is indebted to the Miners' Bank of Dubuque; when the debt was contracted and for what purposes, also as to what means the Territory has for paying the same.

The committee made their report² in the form of (No. 55, C. F.) "A Bill to provide for the payment of the debt due to the Miners' Bank of DuBuque." It was read and referred to the Committee of the Whole, and by them reported back

¹ Journal of Council, 7th Legislative Assembly of the Territory of Iowa, p. 65.

² June 4, 1845.

without any amendments, and was finally passed by the Council on June 7th.

The bill as passed by the Council was received in the House and referred to Committee on Judiciary, and was reported back without any amendments on June 9th and sent to the Governor for his signature.

On June 10th, 1845, this act¹ was signed, to provide payment for the long past due account of the Miners' Bank of DuBuque against the Territory of Iowa, which had been contracted under the provisions of the act of the 15th of January, 1841.

By this act the Territorial Treasurer was to give a three months' notice, published in at least two papers in the Territory, and in some one paper in St. Louis and Cincinnati, of a public sale of lots belonging to the Territory on the first Monday in May, 1846.

There were to be enough of these lots sold to the highest bidder, upon 6 and 12 months credit, to pay the debt due to the "Miners' Bank of Du Buque." The purchasers were to make a bond with sureties to secure these payments, and when they were made the Treasurer was to execute a deed for the lots. As soon as these bonds matured the Territorial Treasurer was to collect them and pay the debt.

This act was to take effect after its passage, which was upon June 10th, 1845.

It will be seen by the provisions of this act that notes given to the bank for money loaned could not be paid at the earliest date possible, before May 1847. Six years after they were given and over four years after the last one was due.

4. *Protest Against Provision for Banks in Constitution.*

Before the vote was taken on June 2, 1845, upon the "Bill to submit to the people the draft of a Constitution formed by the late convention," nine members submitted a written pro-

¹ Chapter 18, Laws of the Legislative Assembly of the Territory of Iowa, 1845.

test¹ to its passage. The objections as to boundaries were given and a number of others, including that it would prohibit the Legislature from adopting a system of internal improvements, the creation of corporations for manufacturing and other useful purposes, and that no bank could ever be constituted under it.

They admit that there are provisions for the establishment of State banks under certain conditions, but that the very provisions are a "mockery." The members of the convention must have known that without an alteration of the Constitution "no sane man" would become a stockholder in a bank where he was liable not only to the amount of stock owned, but to an unlimited extent.

But the strongest argument, one that proved to be the true condition of Iowa under the same circumstances later, was that if the citizens of the Territory were deprived of the privileges of banking and the issuing of paper money the inevitable result would be a flood of paper money from the adjoining states of the worth of which but little could be known, and over which the Legislature of this Territory would have no control. It was apprehended that the "annual loss to our citizens" from such a currency would more than exceed the tax necessary to support a State government. "Every tyro in politics knows that the meaner the paper currency, the scarcer will be the precious metals." The adoption of this Constitution would cause an inflow of this depreciated paper money and the consequent disappearance of gold and silver. A little gold and silver would remain, but was sure to become an "article of merchandise," and could be bought of "those consistent advocates of a hard money currency, called brokers or shavers" at the market price "which even now ranges from twelve to fifty per cent."

¹ Journal of House, p. 167 et seq. The persons signing this protest were: Stephen S. Shelleday, Joseph M. Robertson, Richard Noble, James Anderson, Charles Stewart, N. Munger, Hugh D. Downey, Charles Clifton, and S. D. Woodworth.

5. *Address by Directors of the Miners' Bank "To the People of Iowa."*

On June 16th, 1845, the directors of the Miners' Bank issued an address¹ "To the People of Iowa." This stated that a concise statement for the information of the public of the past history and present condition of the bank had been made necessary by the "strenuous efforts which some people have made, and are now making, to destroy this institution." It was an able, and in the historical part, a fair statement of the bank's position. The legal position taken by it was proven later to be wrong. It was widely circulated over the State and had a considerable influence upon the minds of the people; but this reaction in its favor came too late to be of any service to the bank.

After summarily disposing of the reasons (or rather, the motives) of the persons who had so long pursued the bank with unrelenting hostility, by the statement that these in no way concerned the conduct or the merits of the bank; it then proceeded to discuss the bank's political history. It stated that the charter was granted by a Democratic Legislature and of the nine commissioners, under whom it went into operation, and who, by the provisions of the act of incorporation, were its directors, "a majority were men whose democracy no man dares question."

It went into operation in 1837 at the inception of a great financial panic which resulted in nearly a complete prostration of the business of the country. Within a year many of the merchants and all the banks in the Mississippi Valley had suspended with one exception. It had suffered with the others; but had sustained itself until 1841, several years after every bank West of the Alleghanies, with the exception noted, had suspended. That in 1842 it resumed and paid out specie until a draft had been protested and was forced to suspend again. The statement is made that the first suspension

¹ Executive Document, 1st Sess. 19th Cong., Vol. VIII, 1845-46. Doc. 226, p. 1228.

was the result of an "inevitable participation in a common calamity, rather than from any design to defraud."

The interests of the bank prompted it to pay specie, if possible, during the entire period of this "universal suspension;" for if it could only have accomplished this, the very fact that it was the only bank that had been successful in conducting its business upon a specie basis would have conduced to greatly extend its business, so that its profits would have exceeded those that it could have made by suspending on its then limited business. If it could have gained by fraud the time to have perpetrated it was at the time of the commencement of the general suspension before its specie funds had been exhausted, as it could have refused the specie to the note holders, realized the premium upon it and afterwards refused to resume specie payments. Instead of doing this it exhausted itself of specie in the redemption of notes, and then resumed at the earliest opportunity; and the bank could have sustained the payment of specie if the Territory had paid its debt past due to it, and still unpaid. But the most decisive evidence of the lack of an attempt to commit a fraud is shown by the bank in leaving its property and debts, more than enough to meet the demands against it, exposed to the legal action of its creditors without any attempt of removal or concealment. During this period of second suspension the bank, while not doing any business or making any money, paid off over one-half of the indebtedness against it.

The bank resumed business again in April, 1844, under the present board of directors and cashier, and since that time it had promptly met all of its liabilities. And the claim is made that since that time no charge as to any discrimination, either political or class, can be substantiated, because no preference in any form or shape had been shown.

In discussing the section of the charter as to the provision "that should the bank fail to go into operation, or should it abuse or misuse its privileges under the charter, the Legislature might annul, vacate and make void the charter," reserving to

itself in this form the provisional right to repeal the charter; there is given an account of the different legal attacks upon the bank, giving the attempts to revoke the charter by the Legislatures of 1842 and 1843. Then follows the account of the suit against the bank in the summer of 1844, when it was sought to close up the bank by a writ of *quo warranto* showing a forfeiture of the charter. In this trial, it is said, that Judge Wilson decided that suspension of specie payments or refusal to pay on demand, "*did not of itself work a forfeiture of charter; that fraud must be combined.*" The statement was made that "the good sense of every man must commend this decision and distinguish between the participation in a common calamity, involving alike corporations and individuals, and a premeditated design to defraud." The suit was withdrawn because of the "conviction that no evidence of fraud could be presented." It seemed to the directors that this inability of the prosecution to find any evidence of fraud should have been enough to have forever settled the question of the revocation of the bank's charter, as there was no more proper place to determine its forfeiture than in the courts which are familiar with law and the weighing of evidence. But before these attacks were made, the Legislature, through two of its committees, had made an investigation of the bank with reference to violations of the charter. There was "no doubt," but that these committees made a thorough examination and had reported the facts to the Legislature, and that the different sessions of the Legislature were satisfied that there had been no violation of the charter. Any wrongs complained of, with the exception of suspension, were done before these examinations took place; and these examinations should be accepted by everyone as better evidence than "the report of Mr. Hempstead" wherein "the mere *opinion* of one or two individuals" is given that the charter had not been complied with in regard to the payment of the stock; that this matter, having been once settled, was final until changed by some mode known in law. "The secret attempt of the Legislature to go behind those reports

is believed to be unprecedented by any body of enlightened men."

The public faith was pledged to continue the charter until 1858; and the "violation of public faith has ever been deemed most disreputable in despotism, how base must it be, then, in a republic, professing to rest upon the virtue of the people and to exist only for their good?"

Because of this lack of ability to show fraud arose the unwillingness to permit the bank to be heard in its defence "before any tribunal." "Every principle of law, justice and honor" demanded that the fraud be shown before the forfeiture of the charter by the Legislature or by the courts, and that the officers of the bank be permitted to appear in its defence. That the session of the Legislature which purported to repeal the charter "called for no evidence, summoned no witnesses." The Legislators were misled by the "members from the North" as to public opinion towards the bank and as a result of this "no ceremony was used at the immolation." And "without trial or witnesses, the victim was condemned to death."

The Constitution was designed not only for the protection of life, but also of property. If the directors of a bank can be condemned without being heard or notified to appear, they are liable at any time to be declared guilty of a higher crime. "Who is safe?"

Granted that misuse and abuse of the provisions of the charter had arisen, this did not empower the Legislature to depute the power to appoint trustees to take charge of the bank property, as no such provisions are found in the charter and they can not seize it any more than they can any farm "without a stipulation to that effect." The property of the corporation did not come into its possession by any legislative enactment, hence it can not be taken away by such enactment. They obtained this property by purchasing the same as a citizen, and hold the same under law. The Territory has no authority over the bank beyond that expressed in the charter,

except the "authority it has over the farm and shop," and that does not extend to the closing up of their business.

"The directors felt perfectly competent" to manage the affairs of the bank; even if it should be "agreeable" to the "trustees in expectancy" to have control of the property for a number of years until it "might suit their convenience to return the remaining property to its owners." The directors felt it their duty towards the stockholders to offer legal resistance to such an illegal attempt. The case may be summed up on their part by the statement that: "The trustees claim the right to take possession of the property belonging to the bank. The directors deny the existence of such a right. Let the courts decide. If the bank should be defeated, it will submit."

In the closing sentence the directors leave the whole matter of the right or wrong of the pertinacious attempts of certain persons to destroy the institution and appealed from the prejudice of the past to facts; "from the hostility of the few to the justice of the many; from the condemnation without trial to the right of audience in the sacred precincts of the court room; from the artifices of the demagogue to the integrity of the bench, and the incorruptness of the jury-box."

This report was signed by John Wharton, Timothy Davis, J. P. Farley, Patrick Quigley, Directors, and M. Mobley, Cashier.

6. Petitions to Congress to Disaffirm the Acts Granting Banking Privileges to Citizens of Territories.

In January, 1846, after a five years' struggle over the question, the Legislature of Wisconsin repealed the charter¹ of the Wisconsin Fire and Marine Insurance Company, which had been doing a banking business at Milwaukee. The company issued a manifesto claiming that it had in no way violated the conditions of its charter, and as the charter would not expire until 1868, it should still continue its banking business. The charter of the Miners' Bank of Dubuque had been for-

¹ Incorporated February 28, 1839.

feited before this, in 1845, and it had also stated its intention to continue in business.

The persons in both Territories actively opposed to these two banks circulated petitions and forwarded them to Congress, and on February 17, 1846, the Delegate from Wisconsin, M. L. Martin, introduced the following resolution:¹

“Resolved, That the Committee on Territories inquire into the expediency of disaffirming and annulling every act now in force in either of the Territories of Wisconsin or Iowa, under which individuals or companies claim to have banking privileges.” It was referred² to the Committee and on May 11, 1846, its chairman, Stephen A. Douglas, reported³ a bill disaffirming and annulling these charters. It was read and referred to the Committee of the Whole House on the State of the Union and reported from it and passed the House of Representatives on June 9th.⁴ In the Senate it was referred⁵ to the Committee on Territories and reported back on July 9th, with the recommendation that it do not pass.⁶ It was taken up for consideration on August 7th, and after a considerable time spent in debate upon it, was, after several ineffectual attempts, laid upon the table by the close vote of 26 to 24. The reason for this action is found that it was near the close of the session. During the consideration of the bill strong opposition to the principle of the bill had been shown to be held by many of the Senators, and any attempt to force its passage through the Senate would cause a loss of much time, through debate, that was necessary for the transaction of more important business. So the disposal of it was settled by the question of expediency. This was the last attempt by Congress to interfere with the banking question of these Territories, as both of them soon after became States.

¹ Journal of House, 1st Sess. 29th Cong., p. 421.

² Ibid, p. 782.

³ Ibid, p. 930.

⁴ Ibid, p. 1123.

⁵ Journal of Senate, 1st Sess. 29th Cong., p. 341.

⁶ Ibid, p. 396.

7. *The Closing of the Bank.*

On the 16th day of August, 1845, Judge Wilson appointed Benjamin Rupert and John G. Shields trustees to settle up the affairs of the Miners' Bank of Dubuque ; and approved their bonds.¹ The trustees sought to obtain possession of the bank but the directors refused to turn it over ; and at the November term of court a suit was brought in the name of the United States by James Grant, relator, which raised the question of the constitutionality of the act that repealed the charter of the Miners' Bank of Dubuque. This case was appealed to the Supreme Court of the Territory of Iowa² from the ruling of Judge Wilson in not sustaining the demurrer of the defendants ; the ruling of the lower court was sustained.

The case was then tried upon its merits in the lower court and the act repealing the charter of the Miners' Bank was decided to be constitutional. The directors appealed the case to the Supreme Court. It was tried at the July term of 1848 and the decision of the lower court was sustained.³

The results of these decisions was to legally put the affairs of the bank in the possession of the Trustees ; but in the three years intervening between the passage of the act repealing the charter and the final trial, the affairs of the bank had been settled and it had passed out of existence.

On February 25, 1849, a meeting of the directors was called to close up their connection with the affairs of the bank.

8. *Constitutional Convention of 1846.*

(a) Shall the Delegates be Elected by a Party Vote ?

The act⁴ providing for the Constitutional Convention of 1846 was passed on January 17th, 1846. Immediately after its passage the question of whether the delegates to it should

¹ Docket B, 3d Judicial District (Dubuque County) p. 444.

² Morris Reports, p. 482.

³ Green's Reports, Vol. I, p. 553.

⁴ Chapter 37, Laws of the 8th Legislative Assembly of the Territory of Iowa, p. 31.

be elected as political partisans was agitated. The Whig press was opposed to a Constitutional Convention to which the delegates had been elected by a party vote. As a typical statement¹ of the Whig position, the following from a prominent Whig paper of the times may be taken: "They cling to a party Constitution—and why? Because they think they are in a majority and can carry out their views. If we are right in this assertion, and we believe that we are, they are tyrants. What is tyranny? It is the exercise of authority of the strong against the weak. We draw our inferences and call the actions of our opponents tyranny."

The Whig party claimed² that they were not contending for a bank in Iowa, and that they did not demand a Constitution providing for one; but they wished to have this question left open for the consideration of the people that they might determine it later for themselves. They believed that the people had good sense enough to act upon this subject without the necessity of any constitutional restraint to prevent them from doing mischief. Whig conventions, held for the nomination of delegates, did not adopt resolutions in favor of banks.

On the other hand, the larger portion of the Democratic nominating conventions for delegates adopted resolutions instructing the delegates, if elected, to provide a prohibiting clause against banks, and in all cases denouncing them as intolerable nuisances.

(b) Resolutions of the Democratic Nominating Conventions.

As a typical example of one of these is a resolution³ passed by the Democratic mass meeting, held at Fairfield on February 21, 1846; it was: "No bank or other institution is ever to be erected by the Legislature with the power of issuing its own

¹ Iowa Standard, January 26, 1846.

² Bloomington Herald, January 31, 1846.

³ Resolutions upon this subject are found in the Capital Reporter, March 11, 1846, and succeeding issues.

notes, or the notes of any other bank, public institution or private individual; and a further prohibition against issuing by any individual, or individuals, of bills, checks or promissory notes, or other paper to circulate as money."

If this resolution had been followed it would have kept out of the state much of the "wild cat" banking that abounded in Iowa in the "Fifties," as it would have prevented the circulation of the "Nebraska Bank" money, the issues of the broken Agricultural Bank of Tennessee and of the defunct Talledega Bank of Georgia.

Two of the resolutions passed at Marion, March 1846, throw light upon the opinion held as to the effect of a circulation of bank paper; they were:

Resolved, that this meeting is opposed to banks and chartered monopolies, believing such institutions to be detrimental to the great mass of the community, by creating a fictitious value upon property, and corrupting to the moral tone of society, by causing men to depend more and more upon loans and discounts than upon industry.

Resolved, that we are opposed to the circulation amongst us of bank notes of other states, believing it to be an evil from which we have suffered much, knowing that where such bills are circulated, specie disappears.

Johnson County, as the seat of government, having within its confines the leading politicians of the party in the Territory, at its convention held on March 14th, 1846, passed the most elaborate and withal the most radical protests against banks, of any of the counties. The three resolutions¹ devoted to banks follow:

7. Resolved, that believing, as we do, that there is gold and silver enough in the world to answer the purposes of a circulating medium, we utterly repudiate the doctrine advanced by our opponents that banks are necessary institutions and promote the public prosperity; and further, that we regard them as the most deadly enemies to the true interests of the laboring and producing classes, and as tending to sap the foundations of our liberties, as vipers warmed in the bosom of

¹ Capital Reporter, March 18, 1846.

the body politic, to sting it to death, as splendid schools for bribery and corruption and as stalking horses for vice and demoralization.

8. Resolved, that a State can not delegate that power to individuals which it does not possess itself; and that, therefore, no bank charter can be granted without a violation of that clause of the Constitution of the United States, which declares that no State shall have power to emit bills of credit or make anything but gold and silver a legal tender for the payment of debts.

9. Resolved, that experience having taught us, that when corrupting money power enters the field against the people's rights and the federal constitution, the latter forms no adequate safeguard to the former, but is trampled under foot with impunity, we are in favor of the incorporation into our constitution of a provision expressly prohibiting the incorporation of banks and other institutions with the power of issuing its own, or the notes of any other institution or individual to circulate as money."

The election of delegates was fought out on party lines.

(c) The Constitutional Convention.

The Constitutional Convention of 1846 met at Iowa City on May 4th and continued in session until May 19th. There were thirty-two delegates; of these ten were Whigs and twenty-two were Democrats.

The Committee on Incorporations consisted of Bates, Dible, Grant, Olmstead and Ross, all Democrats. As the result of their labors they made their report¹ upon Incorporations on May 7th; it was as follows:

1. No corporate body shall be hereafter created, renewed or extended, with banking or discounting privileges.

2. The stockholders in all private corporations, except corporations for the purposes of education, charity or religion, shall be responsible in their individual and private capacity for all debts and liabilities of every kind, incurred by such corporation.

3. The Legislature shall have the power to amend, alter or repeal all laws creating private incorporations.

¹ Journal of Convention, p. 38.

These provisions were in consonance with the political action of the party to which the committee belonged. In the Constitutional Conventions of this year, where that party was in power, we find nearly the same provisions were put in the constitutions—Missouri and Louisiana.

These sections came up for discussion and a motion was made to substitute for the report¹ : "Whereas, all sovereignty resides in the people, and the creation of a corporate body is one of the highest acts of sovereignty, therefore, this Convention conclude, that the people have the right, through their representatives, to grant such corporate privileges as may be deemed conducive to the public good." This was laid on the table until the 12th and was then amended by adding: "or the right to prohibit them altogether through this Convention, their representatives, if they, the people, should deem such prohibition for the public good;" but the amended substitute was lost.

A substitute for the first section² was offered in the following form:

1. No corporate body shall hereafter be created, renewed, or extended, with the privilege of making, issuing, or putting in circulation, any bill, check, ticket, certificate, promissory note, or other papers, or the paper of any bank, to circulate as money.

2. Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the Legislature shall provide by general laws for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited. The stockholders shall be subject for such liabilities and restrictions as shall be provided by law.

An amendment³ to this first section was offered in the form of an additional clause by which the law creating such body renewing or extending its privileges should be published in the newspapers for four months before a general election for

¹ May 9, Journal of Convention, p. 56.

² Journal of Convention, p. 71.

³ Ibid, p. 72.

county officers and should receive a majority of all the votes cast. It was lost by a vote in which the party lines were quite closely drawn.

A substitute for the first section¹ was then offered by Mr. Dible; it was as follows:

1. No corporate body shall hereafter be enacted, renewed or extended with the privilege of making or issuing or putting in circulation any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any Bank to circulate as money, except the question of Corporation with the law enacting the same, before it become a law, shall have been submitted to a vote of the whole people at some convenient election, the the majority of whose votes shall be deemed a confirmation, of the same.

This was passed by a vote of 16 yeas to 15 nays. This section conferred the power of granting charters for banking purposes and is very similar to the third section of the article on Incorporations in the Constitution of 1844. This change from the ultra anti-bank provision of the report of the Committee on Incorporations was effected by the Democrats who held a conservative position upon the question of banks, uniting with the Whigs in voting for this substitute. After this substitute was passed, the anti-bank men joined with the conservative Democrats and Whigs in placing strong restrictions in any charters that might be granted under the preceding section. For by a vote of 28 yeas to 3 nays there was added as a second section² the following:

2. The General Assembly may at any time propose alterations or a repeal of any such corporation that may have been created, and such proposition shall be submitted to the people as provided in the foregoing section, and shall be confirmed in like manner." An attempt to make this still stronger by giving the Legislature the power of immediate repeal met with failure.

In the next morning's session the details of the method of

¹ Journal of Convention, p. 72.

² Ibid, p. 72.

granting charters was provided for¹ in that "No act of incorporation shall be submitted to the people, until the same shall have been published at least twelve successive weeks at least in twelve of the weekly newspapers published in this state, provided, that that number of newspapers are published at the passage of such act, nor shall such publication be made until the party applying shall have deposited with the State Treasurer, a sum sufficient to defray the expenses of such publication."

This was passed by a vote of 25 to 6; the negative votes being cast by the Whigs. An attempt to cut the time of publication in the above amendment down to six weeks was lost by a vote of 4 yeas to 27 nays. The affirmative vote here being all Whigs.

Provision was made for the organization of corporations under general laws² by the following: "Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the General Assembly shall provide by general laws for the organization of all other corporations, except corporations with banking or discounting privileges, the creating of which have been already provided for in the foregoing section. The stockholders shall be subject to such liabilities and restrictions as shall be provided by law." Only three votes were cast in the negative upon this question of its passage, and they were cast by Whigs.

The liability clause was changed by adding to the second section: "To double the amount of stock subscribed respectively after the means of such incorporation are exhausted;" and to the second section as amended above there was added: "And no stockholder shall be released from his responsibility by transferring his stock in such corporation to another person." All the Whigs and three Democrats voted in the negative.

¹ Journal of Convention, p. 75.

² Ibid, p. 76.

The motion¹ to postpone indefinitely the report was decided in the negative by a vote of 10 yeas to 20 nays. This, as will be seen, was a strictly party vote, and perhaps the best test that was taken during the session. After this the report was laid upon the table.

At the next morning's session the article on Incorporations was taken from the table and the whole article was struck out by a vote of 24 to 6. The blank was then filled with the sections² following:

1. No corporate body shall hereafter be created, renewed or extended, with the privileges of making, issuing, or putting into circulation, any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank, to circulate as money.

The General Assembly of this State shall prohibit, by law, any person, or persons, association, or company, or corporation, from exercising the privileges of making or creating paper to circulate as money.

2. Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the General Assembly shall provide by general laws, for the organizing of all other corporations, except corporations with banking privileges, the creation of which is prohibited. The stockholders shall be subject to such liabilities and restrictions as shall be provided by law.

The State shall not be directly or indirectly become a stockholder in any corporation.

These are the words of the article on Incorporations as they finally passed. The only change made by the Committee of Revision was to make one paragraph instead of two out of each section.

Upon the question³ of its insertion the vote was 21 yeas to 9 nays; only one Whig voting for its passage. The article was then ordered to be engrossed and referred to the Committee on Revision. Mr. Shelleday (Whig) asked leave of the Convention to be excused from serving on the Committee

¹ Journal of Convention, p. 76.

² Journal of Convention, p. 85.

³ Journal of Convention, p. 86.

on Revision, and Mr. Grant (Democrat) was substituted in his place.

Only one additional reference¹ to banks or corporations is found in the proceedings of the Convention, and that is that "No moneys which may be received from any source whatever, for school or educational purposes, or the proceeds thereof, shall ever be loaned to any bank or other incorporated company." This was laid over under the rules.

The article on Incorporations² was read a third time, and passed on May 17th by a vote 18 yeas to 6 nays; the negative votes were all cast by Whigs.

The people of the Territory had rejected³ at the April election of 1845 the Constitution of 1844 by a majority of 996; on its resubmission in August, 1845, it had been again rejected by a majority⁴ of 421.⁵

9. *Opposition to the Constitution.*

There was a very great opposition to the Constitution of 1846, especially by the Whigs and the more conservative Democrats. The Whig press was united in its effort to defeat it. The old hostility to the Constitution of 1844, because of the too stringent regulations upon banking was now openly shown. The Iowa Standard⁶ in an editorial upon the Constitution says that "The Article upon Incorporation is improved. The former one was a cheat, and so intended. The new Constitution does directly what the other did indirectly. Banking is now prohibited absolutely and flatly. And if the members of the late Convention are not entitled to credit for political sagacity, they deserve some for their boldness. They march right up and make an issue with their constituents; and we trust the people will as boldly meet

¹ Journal of Convention, p. 96.

² Journal of Convention, p. 102.

³ Capital Reporter, May 10, 1845.

⁴ Votes from Iowa and Marion Counties missing.

⁵ Bloomington Herald, September 20, 1845.

⁶ July 8, 1846.

the question of *Bank* or no *Bank* at the next August election, *by rejecting the whole Constitution*, or if from motives of expediency, they shall deem it advisable to vote for the Constitution, that they will endorse upon their tickets, that they *except the Ninth Article*, which prohibited banks.”

Many of the Whig papers advocated that there should have been a provision made for voting upon the disputed question of banks. In the event of the adoption of this Constitution all of them were strong advocates that all minor political differences should be dropped at the next election of members for the Legislature and such members elected as would make provision for its amendment and the settlement of the banking question. Serious objection was made by the Whig papers to this Constitution on account of the difficulty in amending it; it differing from the draft in 1844 by necessitating a Constitutional Convention to amend it, hence if it should be adopted there would be delay in securing reforms in regard to banks.

(a) Speech of Wm. Penn Clark against it.

One of the strongest of the many speeches¹ made against the adoption of the proposed Constitution was that of Wm. Penn Clark, delivered at Iowa City. He was opposed to the adoption of the Constitution because it prohibited banks; and that by doing this the people simply disabled themselves. He called attention to the fact that the prohibition of banks was an entirely different thing from the prohibition of bank currency; and that this was not a settlement of the abstract question whether the people of the Territory preferred gold and silver exclusively, or a mixed bank currency. He stated that “The question is narrowed down to the single point, *whether we will have banks of issue of our own, and a currency of our own creation, and under our own control*, or whether we will become dependent upon other States for such a circulating medium; trusting to the solvency and the good

¹ Iowa Standard, July 22, 1846.

faith of their institutions, and affording them a market for their issues, without receiving any of the profits of the business. Who can hesitate about deciding this question? If bank paper must and will enter into and become a part of the currency of the State, (and no one can deny that such will be the case so long as the other States have banks and bank paper) common sense dictates that those issues should be subject to the control of our government, and emanate from institutions conducted by our own citizens of whose character and solvency we can know something. It becomes a principle of protection then, and self preservation unites with self interest in demanding that we provide a local currency of our own. Each State acts for itself in this particular, and as we can not control or forbid the action of our sisters, policy and duty dictate that we protect ourselves from the effects of their Legislation. We can only do this by placing ourselves upon an equality with them. If we provide a safe and sound State currency, as they have done, our capital can be employed as advantageously as theirs, and our institutions will act, not only as a check upon their banks, but drive out of our limits the notes of foreign institutions. Banks will draw capital to them, and no country needs the *rhino* more than this. The capital will come from the old States, where it is abundant, locate itself here, pay its proportion of public burdens and become an active instrument in breaking up our prairies. Treading fast in the footsteps of capital comes *population*. The industrious mechanic, the enterprising manufacturer, the hardy laborer, all follow capital. Where money is plenty there labor is amply rewarded, and all classes of society flourish."

(b) Democratic Support of Constitution.

The democratic papers were all strong supporters of the Constitution, and strongly opposed banks by showing all the evil effects of bank mismanagement in the past; while for political purposes, they sought to drive the Whig press into

admitting that the Whigs were the party of banks. In making them take this stand they were unsuccessful. They also sought to show that if for no other reason the Whig party would oppose the Constitution because in the framing of it they had not exercised the controlling voice, and that in all probability they would not control the State Government under it. There were some quite strong appeals made to class distinctions by the press of both parties.

On the third of August, 1846, a majority of 456 votes in favor of the Constitution were cast.

10. *The Whig and Democratic Reasons for Ratification.*

The Whigs explained its ratification by the people because they were "anxious to enter the Union," and a small majority of voters were found who voted for it from motives of temporary expediency, believing that amendments could be made before any serious inconvenience could arise from some of the restrictions placed on the Legislature. In the main the Constitution was considered exceptionable; but by removing the facilities for amending it the "hards" had fastened upon upon the people of Iowa the new-fangled policy of an exclusive metallic currency. They urged that no time should be lost in seeking to mend it at the earliest opportunity.

The Democrats pointed to the ratification of the Constitution of 1846 as being the voice of the people on the question of banks and the banking question. And that now the people of Iowa would no longer be swindled by bad bank notes issued within her borders.

The relative ideas of the two parties are shown in the resolution passed at the Democratic Convention for the nomination of State Officers on September 24, 1846, and that of the Whig Convention, passed on September 25, 1846; both conventions were held at Iowa City.

POLITICAL PLATFORMS.

DEMOCRATIC PLATFORM.¹

Resolved, That the separation of the public moneys from the banking institutions of the country, in the passage of the Independent Treasury Bill meets the approval of this Convention, and the recent vote of the people of this State, adopting the Constitution, is a decisive indication of public sentiment against all banking institutions of whatever name, nature or description.

WHIG PLATFORM.²

Resolved, That we regard the adoption of the Constitution at the recent election by reason of the highly illiberal character of some of its provisions as an event not calculated to promote the future welfare and prosperity of the State of Iowa, and that it is our imperative duty to secure its speedy amendment.

II. *The Attempts to Amend the Constitution of 1846, and Adoption of the Constitution of 1857.*

On February 15th, 1847, the House of the First General Assembly passed upon its third reading H. R. File³ No. 89, providing for the calling of a Constitutional Convention for the amendment of the Constitution of 1846 so as to provide for the establishment of a banking system. On the next day in the Senate the motion⁴ to postpone indefinitely was carried by a vote of 10 yeas to 8 nays; one Democrat voting with the Whigs in the negative.

The leading Whig paper⁵ commenting upon this stated that the refusal of the Legislature to allow the people to vote for or against the Convention to amend the "Locofoco Constitution" was a bold position to assume; and that it came with ill grace from the party that pretended to be ultra-democratic in their politics. The closing of the editorial is: "But thank God, the people can speak without asking permission of their representatives and in the name of Liberty, we now call upon them to do it. Let every voter at every

¹ Fairall's Handbook of Iowa Politics, p. 18.

² Ibid, p. 17.

³ Journal of House, p. 310.

⁴ Journal of Senate, p. 336.

⁵ Iowa Standard, March 3, 1847.

election, until their votes are regarded, put upon their tickets, convention or no convention, and let the Judges of Election dare not to certify to them."

A plea¹ made by the friends of the Constitution of 1846 in voting against the above noted amendment was, that it was rejected in consequence of the belief that the people did not demand its passage; for if the people had wanted a Constitutional Convention they would have petitioned for it.

The agitation for the calling of a Constitutional Convention was kept up by the Whig papers during the year of 1847; accompanied in most cases with criticisms of the Constitution and the Democratic party. A typical editorial² is, in substance, as follows: "A majority of people are not opposed to banks. When the Constitution of Iowa was framed there happened to be a concurrence of events tending to elevate, in the scale of progressive democracy, the peculiar notions of Fanny Bright, and her subterranean proselytes. The test of Democracy was then, *Free Trade, Hard Money, No Banks, No Corporations*. No Christianity and no anything except *Democracy*, and that progressive.

"The people had been wearied with Territorial vassalage, and they adopted the Constitution, with the express understanding that the fooleries in it were to be expunged as soon as possible. They supposed that the First General Assembly would provide a vote upon it at the first election. They have been disappointed but they will not let another election pass without making "Convention" or "No Convention" a test question, unconnected with Whiggery or Democracy."

The Whig papers,³ early in the year of 1848, called the attention of the voters to the fact that one of the issues of the August election would be the question of amending the Constitution of Iowa. That this should not be lost sight of and should be considered without reference to political parties.

¹ Iowa Capital Reporter, January 5, 1848.

² Iowa Standard, September 15, 1847.

³ See Iowa Standard, April 4, 1848, and other Whig papers of this year.

The most important amendment to be proposed was that in regard to corporations which was the work of "Locofocos;" but many of the old school Democrats would have been glad to have had an opportunity to vote for the provision for "Joint stock companies," or to leave the matter to the discretion of the Legislature.

Most of the counties where the Whigs were the predominant party adopted resolutions in the conventions, called for the election of delegates to the State Convention. The resolution¹ passed by the Whig Convention at Farmington, Van Buren county, on the 29th of April, is one of the more conservative ones. It is as follows:

Resolved, that the Constitution of the State imposed upon the people of this State by the wretched policy of a party preventing as it does and will, the influx of capital and enterprise into our young State and consequently the development of her inexhaustable mineral resources, her great agricultural wealth and manufacturing and commercial facilities is a burden to which the people will not long submit, and that we will sustain no man for the Legislature at the approaching election who will not pledge himself to vote for a law submitting the question to a vote of the people.

There were no resolutions in regard to the question of amending the Constitution passed at either the Democratic or Whig conventions of this year.

By the year of 1849, the question of amendment or no amendment of the Constitution in regard to incorporations had become of enough importance to receive the attention of both parties at their State Conventions.

In the resolution² in regard to National affairs, "the paper policy" was decried by the Democratic Convention.³ In the Whig Convention⁴ two resolutions⁵ were devoted to the subject. These state "that the welfare and interests of the

¹ Iowa Standard, May 17, 1848.

² Fairall's Handbook of Iowa Politics, p. 25.

³ Held at Iowa City, June 28, 1849.

⁴ Ibid, June 30, 1849.

⁵ Fairall's Handbook of Iowa Politics, p. 27.

people imperatively demand an amendment by which the incubus imposed in some of the provisions of the Constitution upon their resources and prosperity, shall be removed. That the people had a right to demand that the question be submitted to them for their action and if this was not done the people would be recreant to their interests if they do not visit their condemnation upon a party that with professions of Democracy perpetually upon its lips has shown itself in practice to be destitute of the true principles of Democracy."

The Whig Convention¹ of 1850, passed resolutions² which were practically but the reiteration of those of the previous year. The Democratic Convention of this year gave no attention to the subject.

The Whigs, at their Convention held at Iowa City, on February 22nd, 1852, stated³ that they were rejoiced to see their Democratic fellow-citizens in the western states occupying a part of the Whig platform,⁴ especially those parts in regard to currency and internal improvements. The opinion of this Convention was that a Convention to revise the Constitution of the State should be called at an early date and it was recommended, with a view of the carrying out of this object, that all State and local candidates, in every part of the State, should make this issue a distinct and strong one before the people.

In consonance with with this, the amendment of the Constitution was made one of the principal issues of the campaign of 1852; it had its effect in the campaign as shown in the inaugural message⁵ of Governor Hempstead delivered December 7th, 1852.

While in the Legislature of Iowa Stephen Hempstead had

¹ Held at Iowa City, May 15, 1850.

² Fairall's Handbook of Iowa Politics, p. 28.

³ Fairall's Handbook of Iowa Politics, p. 32.

⁴ Constitution of Ohio and the enacting of banking laws by Wisconsin, Illinois and Indiana.

⁵ Governor's Message, p. 2.

been one of the strongest of the anti-bank Democrats, and he was especially active in the attempts made to close up the affairs of the Miners' Bank. His statements as made in this message were a fair and candid avowal of the position of the larger part of the Democratic party in Iowa at this time; and in fact of the more conservative Democracy of the whole country. Because of this a condensation of his statements upon the subject of banks is given here.

He expressed deep concern, when he saw in looking to the future, a large portion of his fellow citizens in favor of amending the Constitution in such a manner as to permit the establishment of banks. Restrictions incorporated in the Constitution for the purpose of preventing hasty, unjust and unwise legislation and thus protecting the people. The time had now come to study the principles of political economy as connected with the government so as to ward off the approaching evils. Among the first of these evils, he considered the system of banking as it had been and was now being carried on. Having been invested by law with extraordinary privileges they had become a power over the trade, industry, and commerce of the whole country. These banks had three special privileges: "First, to concentrate their capital and credit, and to issue their notes to double and often to triple the amount of their capital; Second, to loan their credit at a high rate of interest; Third, an exemption from the ordinary liability to pay their debts and contracts to which the majority of mankind is subjected." Possessing, exclusively, these powers and privileges by the sanction of the law it was not surprising that the agricultural, industrial and manufacturing industries of the country should be subject to frequent financial convulsions. The failures of the banks of Illinois and other Western States during 1840-41 and the consequent ruin entailed upon thousands could not be forgotten. A number of those states had failed to profit by their former experiences and had recently organized general systems of banking and again the whole Mississippi Valley would be

flooded with a paper currency; and that they might look for another financial convulsion more disastrous than the former. He admitted that a system of banking would serve the purpose of stimulating the hopes and business pursuits of a community during seasons of prosperous credit, and would impart more than ordinary vigor to traffic; but it was always treacherous and had too many uncertainties upon which to risk the fruits of toil and industry of persons who were generally the least able to bear the losses incident to a paper currency. What would be the gain by the establishment of banks and the substitution of a paper currency whose inevitable tendency would be to drive the currency from circulation? The first blast of adversity would sweep the foundations of the business relations of the State away. There was too much paper money in circulation now; it had already driven, to a great extent, the precious metals from the State. "For the purpose of retaining in circulation a sufficient sum of gold and silver to do the ordinary business of the citizen," he urged the Legislature to pass a law prohibiting the circulation of all bank notes of a less denomination than ten dollars; for a law of this character would have a salutary effect in driving out the small notes and to some extent would protect the people from the effects of "Bank Explosions". This forecasting or rather prophecy of the future evil effects of state banks and their paper issues was fulfilled by the crisis of 1857.

The Whig Convention¹ of 1854 passed a resolution² which stated that the experience of seven years under the Constitution showed that it was not suitable to the political, agricultural and commercial wants of the State and that it was in direct opposition to "The Spirit of the age." The people needed and demanded an organic law which would make liberal provisions for internal improvements by the State and a banking system so organized and regulated that it would relieve the people from the heavy indirect taxation that they

¹ Held at Iowa City, February 22, 1854.

² Fairall's Handbook of Iowa Politics, p. 37.

had been forced to pay to the banks of other States whose money was in circulation in Iowa.

In his message¹ of 1854, Governor Hempstead recalled the cautions that he had given and recommendations that he had made in regard to State banking systems. He called attention to the fact that although only two years had elapsed yet they found themselves in the midst of a financial crisis. Long lists of suspended and broken banks were found in every issue of the newspapers, that the people who suffered from these broken banks were not "those whose business it was to deal in money and bank paper; and who wield the lightnings of heaven to tell of danger or disasters, but others whose very existence depends upon their labor and who can ill afford to pay the luxury and expense of banking corporations."

"Yet with all the evidence of the pestilential effects of paper money on the necessary confidence between man and man and the industry and morals of the people, the enormous frauds that have been practiced and the losses suffered by toiling millions, we are told that it is necessary to establish a banking system in Iowa." He reiterated the statements in his former message that a banking system had a stimulating effect in times of prosperity; but that it was a system which was always fraught with danger.

He looked upon the system which employed public stocks and securities as the most dangerous of all of the different expedients resorted to for the concealment and mitigation of the errors and evils of the present banking systems; for it was the making of one promise that it might be impossible to redeem the basis of another equally as desperate. He had had no occasion to change the opinions which he had communicated previously to the General Assembly, nor could he discern anything in the condition of the business relations or the positive wants of the community that the Constitution of Iowa should be changed to establish a banking system in Iowa.

¹ Delivered December 8, 1854. *Journal of House*, p. 32.

Governor Grimes, coming directly from the people, recognized and stated the wants and demands of the people in his message¹ of Dec. 9, 1854. There could be no doubt, he said, of the wishes and demands of the people in regard to the amendment of the Constitution of the State; and that it would be a waste of time to reproduce the arguments in favor of a change. The amendments could by the terms of the present instrument, be made only by a Constitutional Convention; and the only question for discussion was, "Should the people have the privilege of determining for themselves at the ballot box whether they want revision or amendment at all." No valid excuse could be given against the submission as it would not cause any expense; for in accordance with the terms of the present Constitution it must be settled at a General Election. Consequently a decision against the amendment would cause the State no injury; and if in favor of the revision, "The genuine doctrine of popular sovereignty would be vindicated."

At this session of the General Assembly there was set in motion the machinery to call a constitutional convention that should amend the Constitution of 1846, so that a banking system might be established and also that internal improvements might be made by the state. The result was, the law² that gave the permission for the people to vote³ upon the question of "Convention" or "No Convention," which was carried, and the subsequent meeting of the Constitutional Convention of 1857.

This Convention soon found that the attempt to amend the organic law so as to make it acceptable would be futile and it proceeded to form a new Constitution. In this provision was made that the General Assembly could establish with subsequent approval of the people:

A state bank with branches to be founded upon a specie basis and the branches to be mutually liable for each other's issues.

¹ Journal of House, p. 45.

² Approved January 24, 1855, Laws of Iowa, 1855, p. 115.

³ On August 16, 1856.

A general free banking law with the restrictions and limitations imposed by Article 8, Section 8 to 12 of the Constitution.

Laws were passed by the General Assembly of 1858 authorizing the establishment of both systems of banking; and were ratified by the vote of the people.

No banks were organized under the "free banking law," but a State Bank was established in 1858, during the closing hours of a serious financial panic and continued in business until it suspended as the result of the National Bank Act in 1863. During this period it was one of the few banks in the United States which did not suspend specie payments and whose notes were always quoted, throughout the land, at par.

Throughout the period from 1846 to the establishment of the State Bank of Iowa—while the political events noted above were taking place, the people of Iowa were experiencing the evil results of a circulating medium composed in the greater part of a depreciated paper money issued under the generally lax laws governing the banking systems of the different states. The West had no Suffolk Bank and with poorly developed markets for her products it followed, as a result of "Gresham's Law," that this State was flooded with some of the worst money of the Union. During this period it was the place of circulation for the notes of discredited banks; the depreciated notes of banks in which the public had partially lost confidence; the worthless notes of "Wild Cat Banks"; and, in rare instances, the notes of solvent banks of the Eastern States or some of George Smith's money. Even these last two were, during the greater part of the year, subject to the discount of exchange in returning them to their respective banks. Gold and silver money was scarce and was either hoarded to pay taxes or to be used as "Land Office Money." Iowa during this period was the experimental ground for several interesting attempts to secure a circulating medium, sufficient to meet the commercial wants of her people. As types of the more important of these there may be cited:

the Nebraska Bank money; the A. J. Stevens money; and the different issues of scrip in cities.

On March 16, 1855, the Nebraska Territorial legislature incorporated the "Western Fire and Marine Insurance and Exchange Company, with the power to deal in exchange which enabled it to go into the "wild cat" banking business as the Western Exchange Bank of Omaha. In the second legislative assembly of Nebraska Territory five banks were chartered. Their charters were all of the same form; their stock was to be either \$50,000 or \$100,000, to be increased to \$500,000 at will; they had power to issue notes and bills for the redemption of which the stockholders were individually responsible; there was no provision for a fixed reserve nor other guard against incompetency or rascality. The bills of three of these banks were circulated to a very considerable extent by the owners of the bank charters who were doing a banking business in this state. The bills away from the places of distribution always circulated at a discount. For a time B. F. Allen kept the money of the Bank of Nebraska at par along the line of the Western Stage Company by making arrangements to have the company receive the bills at par.

A. J. Stevens & Co., of Des Moines, following the plan of George Smith, secured a large amount of bills of the defunct Agricultural Bank of Tennessee, and put them in circulation, guaranteeing their redemption; but the firm failed with a consequent total loss to the bill holders. During the latter part of the period under consideration, cities, towns, companies and individuals commenced the issue of scrip. Over a million dollars of this kind of money was in local circulation in the state. In each case, shortly after its issue, it depreciated from ten to fifty or more per cent.

All of these, as well as the character of the outside money in circulation in the state, aided in bringing about the establishment of a banking system in Iowa for the emission of a paper money that would not have to be circulated at a discount and the character of which could be readily ascertained by the people of the state.

APPENDIX A.

AN ACT to incorporate the stockholders of the Miner's bank of Dubuque.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That a bank shall be established in the town of Dubuque, in Dubuque county, and territory, aforesaid, the capital stock whereof be two hundred thousand dollars, to be divided into two thousand shares of one hundred dollars each, and the subscriptions towards said stock shall be opened as soon as may be convenient, after this act shall be approved by the congress of the United States. The subscription shall be opened in the said county, and at such other places as the commissioners may think proper, and be kept open until the stock is subscribed, under the superintendence of Ezekiel Lockwood, Francis Gehon, John King, William Myers, Lucius W. Langworthy, Robest D. Sherman, William W. Corriell, Simeon Clark and E. M. Bissell, who are hereby appointed commissioners, to receive the subscriptions to the said capital stock, and the said commissioners shall be the first directors; they shall choose one of their number for president and they shall give at least thirty days notice of the time and place of opening said subscription, in one or more newspapers printed in said county, and they shall hold their offices until the first election for president and directors takes place.

SECTION 2. The commissioners shall proceed to distribute the capital stock of the said corporation, among the subscribers thereto, and in case there shall be subscriptions for more than the amount of such stock, within the first three days that the books are opened, it shall be the duty of the commissioners to apportion the same among the subscribers thereto in rateable proportion, to the amount subscribed by the respective individuals; but in case the whole of the capital stock shall

not have been subscribed at the expiration of the three days, the commissioners shall continue the books open as long as they may deem necessary, to have the whole of the remaining shares subscribed.

SECTION 3. That one tenth of the amount of each share, shall be paid to the said commissioners at the time of subscribing, and the balance shall be paid in such instalments, and at such times as the directors or a majority of them, for the time being, shall direct and appoint: *provided*, that whenever the payment of any instalment is required by the directors, they shall give at least ninety days notice thereof, in a newspaper, printed in the county, if there should be any published at the time; if not, then in the newspaper published in the territory the nearest to the said bank, but no one instalment shall exceed ten dollars on each share.

SECTION 4. All such persons as shall become stockholders of said bank, shall be, and are hereby ordained, constituted and declared to be, until the 1st day of May, which will be in the year of our Lord 1857, a body corporate and politic, in fact and in name, by the name of the president, directors and company of the Miners' bank of Dubuque, and by that name, they and their successors shall and may have continual succession during the term aforesaid, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever, and they and their successors may have a common seal, and may change and alter the same at pleasure; and they and their successors, by the name of the president, directors and company of the Miners' bank of Dubuque, shall be in law capable of purchasing, holding and conveying any estate, real or personal, for the use of said corporation: *provided*, that it shall not be lawful for the said corporation to hold real estate for an amount exceeding one-tenth part of the capital stock actually paid in, excepting, however, the banking house and lot necessarily appurtenant thereto.

SECTION 5. The stock, property, affairs and concerns of the said corporation, shall be managed and conducted by a board of seven directors; the said directors shall all be residents and citizens of this territory; they shall choose one of their own number to be president, who shall hold his office, as also shall the directors, for one year, and until others are duly chosen. The directors shall all be stockholders in this incorporation, and they shall all be elected on the 1st Monday in October annually, at the banking house of said stockholders, and public notice shall be given in some newspaper published in the territory, at least sixty days previous to holding said election; and the said election shall be held and made by such of the stockholders of the said bank, as shall attend for that purpose, either in person or proxy, which proxies shall only be to stockholders, or to the cashier of the bank, and the plurality of votes shall be sufficient for a choice; and the said directors chosen at such election, as soon as may be thereafter, shall proceed in like manner to elect one of their number to be president. And if any director shall cease to be a stockholder, his office shall be considered vacant, and when any vacancy shall happen among the directors, by death, resignation or otherwise, such vacancy shall be filled for the remainder of the year, by the remaining directors, for the time being, by the election of one of the stockholders.

SECTION 6. That in case it shall happen that an election of directors shall not be made on any day when pursuant to this act it ought to have been done, the corporation shall not for that cause, be deemed to be dissolved, but it shall and may be lawful on any other day, to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of the said corporation.

SECTION 7. That the directors for the time being, or a majority of them, shall have power to make and prescribe such by-laws, rules and regulations, as to them shall appear needful and proper, touching the arrangement and disposition of the stock, property, estate and effects of said corporation,

the duties and conduct of the officers, clerks and servants, employed therein, the election of the directors, and all such other matters as appertain to the business of the bank, and shall also have power to appoint so many officers, clerks and servants for carrying on the business of said bank, and with such salaries as to them shall seem meet: *provided*, that such by-laws, rules and regulations be not repugnant to the constitution or laws of the United States, or the laws of this territory; and it shall be the duty of the president and cashier, whenever thereto required by the legislative assembly of this territory, to furnish to them a statement, under oath or affirmation, of the condition of the bank, stating the amount of the deposits, the profits on hand, the amount of bills in circulation, the amount of debts due from the directors and stockholders, the amount due from other persons or corporations not however naming them, the amount of specie in bank, the amount of bills of other banks, the amount of their deposits in other banks, the amount of their real estate, and of other property, not therein specified, the amount of capital actually paid in, and shall contain the true exhibit of the real state of said bank.

SECTION 8. That the total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, post note, or other contract, over and above the specie then actually deposited and contained in the bank, shall not exceed three times the sum of the capital stock subscribed and actually paid into the said bank; and in case of excess, the directors under whose administration it shall happen, shall be liable for the same in their separate and private capacities: *provided*, the bank shall not be able to pay its liabilities; *and provided*, also, that this shall not be construed to exempt the said corporation, or any estate, real or personal, which they may hold as a body corporate from being also liable for, or chargeable with such excess; but such of the directors as were absent when the said excess was contracted, or who may have dissented from the resolution or act whereby the same was contracted, shall not be so liable.

SECTION 9. That the lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be required for its accommodation, in relation to the convenient transacting of its business, or such as shall have been *bona fide* conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for said debts; and further, the said corporation shall not, directly or indirectly, deal or trade in purchasing or selling any goods, wares, or merchandise, unless in selling the same when truly pledged by way of security, for debts due the said corporation, or purchasing the same at sales on judgments, which shall have been obtained for any debts previously contracted in the course of its dealings, and afterwards selling the same.

SECTION 10. That the bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, his, her or their assignee or assignees, so as absolutely to transfer and vest the property thereof, in each and every assignee or assignees respectively, and to enable such assignee or assignees, to bring and maintain an action thereupon, in his, her or their own name or names, and bills or notes, which may be issued by order of said corporation, promising the payment to any person or persons, his, her or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in like manner and with like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner, as if they were issued by such private person or persons; and all such bills, obligatory and of credit, and such bills, notes and post notes, issued as aforesaid, shall be paid by the said corporation, when demanded at their banking-house, in the legal coin of the United States.

SECTION 11. Each stockholder shall be entitled at elections, and on all other questions, to one vote for every share for ten shares; and for every ten shares above that amount, shall be entitled to one vote only; and no stockholder unless actually resident within the United States, shall vote at elections, or on any other occasion by proxy.

SECTION 12. That the directors, before they execute any of the duties of their offices, except choosing a president, shall severally take an oath or affirmation, that they will faithfully, diligently and honestly perform the duties of their respective offices, according to the best of their skill and abilities, which oath or affirmation either of the directors is hereby authorized to administer to the president, or any other director, and to all such officers, clerks and servants of said corporation, as by the by-laws and ordinances thereof may be required to take an oath or affirmation.

SECTION 13. That the directors, shall make half-yearly dividends of so much of the profits of said bank, as to them or a majority of them shall seem advisable, and every cashier and clerk, before they enter upon the duty of their offices, shall give bond with security to the satisfaction of the directors, conditioned to the faithful performance of their duties.

SECTION 14. A majority of the directors shall constitute a board for the transaction of business; for making ordinary discounts, such a number of directors shall constitute a board, as shall be required by the by-laws of said corporation.

SECTION 15. That a general meeting of the stockholders may be called, whenever a majority of the directors shall judge proper; of which meeting the directors shall give three weeks' previous notice in a newspaper printed in the county.

SECTION 16. That the stock of said corporation shall be assignable according to the rules prescribed in the by-laws of said corporation, but no assignment or transfer shall be valid or effectual, until such assignment or transfer shall be entered or registered in a book to be kept for that purpose, nor shall any stockholder be capable of assigning or transferring his or

her stock in the said bank, until all his or her notes, debts, dues and endorsements of whatever nature, due or becoming due to the said corporation, shall be first paid and discharged.

SECTION 17. That the stockholders may at any time augment the capital stock of the said bank, at any special meeting called for that purpose, a majority of all the votes being given therefor, under such regulations, restrictions and conditions as the stockholders shall at such meeting judge proper, to any amount not exceeding five hundred thousand dollars.

SECTION 18. That the property of every individual member of the said corporation, vested in said corporate funds, shall be liable in the same manner as other personal property is liable by the laws of the territory, to the payment and satisfaction of his just debts to any of his bona fide creditors, and when any execution shall be issued against the personal property of any such individual member, and the creditor is desirous that the same should be levied upon the property of such debtor in the said corporate funds, the officer to whom such execution may be directed, shall levy the same by leaving with the cashier of said bank an attested copy of said execution and a written notice that the said execution is levied upon the property of the said debtor in the said and such property thus levied upon, shall be sold in the corporate funds; same manner as is or shall by law be provided for the sale of personal property taken on execution, and such corporate funds thus levied upon and sold shall be transferred to the purchaser by entry in the proper book of such corporation; a copy of the said execution, and a statement of the sale of such property by virtue thereof; which entry the officer serving such execution shall be permitted to make: *provided*, that no property vested in the said corporate funds, shall be taken and sold until all the debts due, or becoming due to the said bank, by such debtor, whether as a drawer or endorser or surety, shall be fully paid and discharged; and upon any execution being levied on any shares in said bank, it shall be the duty of the cashier of said bank, to expose the

proper book of the corporation to the officer; and to furnish him with a certificate, under his hand, in his official capacity, stating the number of shares the debtor holds in said bank and the amount of dividends declared and due thereon.

SECTION 19. That the said corporation shall not take more than seven per cent. per annum on its loans and discounts, in advance.

SECTION 20. That no note or bill shall be issued by said bank, of a less denomination than five dollars, and that the bank shall not issue any bill or note until the sum of forty thousand dollars in the legal coin of the United States shall be paid into the said corporation by the stockholders, as a part of the stock: *provided*, that nothing herein contained, shall be construed to deprive the legislative assembly, in four years from this time, from prohibiting the issuing of notes from this bank of a less denomination than ten dollars, or in ten years from this time, of a less denomination than twenty dollars, if the legislative assembly should deem it expedient to do so.

SECTION 21. In case any subscriber to the stock of this corporation, shall fail to pay any instalment called for, as is provided in section third, his or her stock shall be forfeited, with what may have been paid upon the same, to the corporation: *provided*, the same be not paid (with the interest thereon, at twelve per cent. per annum) within ninety days after the time when it is due, agreeable to the notice of the commissioners or directors for said installments.

SECTION 22. No one director shall be permitted at any one time to become indebted to the bank by loans, endorsement or otherwise, to an amount exceeding five thousand dollars.

SECTION 23. That this act be and the same is hereby declared to be a public act, and that the same be for the time herein before limited, construed in all courts and places benignly and favorably, for every beneficial purpose therein mentioned: *provided*, that if said corporation shall fail to go

into operation, or shall abuse or misuse their privileges under this charter, it shall be in the power of the legislative assembly of this territory, at any time, to annul, vacate and make void this charter.

P. H. ENGLE,

Speaker of the house of representatives.

HENRY S. BAIRD,

President of the council.

H. DODGE.

Approved, Nov. 30, 1836.

APPENDIX B.

BIBLIOGRAPHY.

Primary Authorities.

Congressional:

Executive Documents from 1836 to 1846.

Reports of Secretary of the Treasury from 1836 to 1846.

Finance Reports, 1876, and 1879.

Journal of House of Representatives, 1846.

Journal of Senate, 1846.

Report of Financial Condition of the United States, 1855, 1858, 1861.

State:

Journal of House of Representatives of Iowa Territory, First, Second, Third, Fourth, Fifth, Sixth and Seventh Sessions.

Journal of Council of Iowa Territory, First, Second, Third, Fourth, Fifth, Sixth, and Seventh Sessions.

Governor's Messages from 1836 to 1858.

Session Laws from 1836 to 1858.

Journal of Constitutional Convention, 1844.

Journal of the Constitutional Convention, 1846.

State Supreme Court Reports, cited.

Miscellaneous:

Council and House Journals of Wisconsin Territory for 1837, 1838, and 1839.

Session Laws of Different States, cited.

United States Supreme Court Reports, cited.

Mississippi Supreme Court Reports, cited.

Indiana Supreme Court Reports, cited.

Court Records of Dubuque County from 1836 to 1848.

Governor's Messages of Different States, cited.

Secondary Authorities.

Iowa Capital Reporter, 1841, '42, '43, '44, '45 and '46.

- Iowa Standard, 1840, '41, '42, '43, '44 and part of '45.
Bloomington Herald, 1840, '41, '42, '43, '44, '45, and '46.
The Dubuque Visitor, 1836-37.
The Iowa News, 1837, '38, and '39.
Burlington Hawkeye, 1840 and 1841.
Ohio Statesman, 1844.
Cincinnati Globe, 1844.
Indiana Sentinel, 1844.
Dubuque Miners' Express.
Gouge's Journal of Banking, 1841 and 1842.
Raguet's Financial Register, 1837 and 1839.
Hunt's Merchants Magazine from 1837 to 1858.
Niles Register from 1837 to 1850.
Bankers' Magazine, Vols. 7-20.
Rhodes' Journal of Banking.
BAKER, H. F., Banks and Banking in the United States, 1854.
Blodgett's Economica.
BOLLES, A. S., Financial History of the United States, 3 vols.
BURRIE, S., Annals of Prairie Du Chien.
CAREY, M., Essays on Banking, Philadelphia.
ELLIOTT, J., Funding System of U. S. Senate Doc., 1845.
Fairall's Handbook of Iowa Politics.
FISH, T., The Banking Bubble Burst, Charleston, 1837.
GALLATIN, A., Considerations on the Currency and Banking System of the United States, Philadelphia, 1831.
Suggestions on the Banks and Currency of the Several United States, N. Y., 1841.
GOUGE, W. M., Short History of Money and Banking in the United States, Philadelphia, 1833.
KNOX, J. J., United States Notes, N. Y., 1884.
RAQUET, CONDY, Inquiry into the Causes of the Present State of the Circulating Medium of the United States, Philadelphia, 1815.
Treatise on Currency and Banking, Philadelphia, 1839.
TUCKER, A. V., History of Banking, Richmond, 1839.
WHITNEY, D. R., Suffolk Bank, 1878.

14 DAY USE
RETURN TO DESK FROM WHICH BORROWED
LOAN DEPT.

This book is due on the last date stamped below,
or on the date to which renewed. Renewals only:

Tel. No. 642-3405

Renewals may be made 4 days prior to date due.
Renewed books are subject to immediate recall.

REC'D LD OCT 22 1978 2 9

FEB 3 1979 90

REC'D LD FEB 8 1979 1 PM 40

NOV 3 1978

REC. CIR. APR 13 '75

DEC 9 1978 B1

2/9

REC. CIR. MAR 7 1979

LD21A-60m-S.'70
(N8837s10)476-A-32

General Library
University of California
Berkeley

(E1002510/2100)

0000000

THE UNIVERSITY OF CALIFORNIA LIBRARY

• 122 •